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Vol. VII — pp. 3505 to 3955

TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1939

No. 346

THE UNITED STATES OF AMERICA, PETITIONER

vs.

SOCONY-VACUUM OIL COMPANY, INC., ET AL.

No. 347

SOCONY-VACUUM OIL COMPANY, INC., ET AL., PETITIONERS

vs.

THE UNITED STATES OF AMERICA

ON WRITS OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT

PETITIONS FOR CERTIORARI FILED AUGUST 31, 1939
CERTIORARI GRANTED OCTOBER 16, 1939

IN THE

United States Circuit Court of Appeals
For the Seventh Circuit

No. 6721

THE UNITED STATES OF AMERICA,
Plaintiff-Appellee,

vs.

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Defendants-Appellants.

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G 126	Letter, Dec. 21, 1935, J. F. Nagle to L. H. Poland	506 907	2723
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D 903	Check and voucher, June 18, 1935, for $322.10, Planning and Coordination Committee to R. W. McDowell	1213	3505
G 904	Article from Chicago Journal of Commerce, June 8, 1935, concerning press conference of President Roosevelt	1217	3507
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D 912	Tabulation of number and amount of subnormal prices to dealers for housebrand gasoline, 1935-1936	1243	3511
D 913	Tabulation of number and amount of subnormal prices to dealers for third grade gasoline, 1935-1936	1243	3511
D 914	(for identification) Excerpts from Final Report of Marketing Division, Petroleum Administrative Board, issued June 1936, concerning stabilization	1281	3512
D 915	(for identification) Letter, May 18, 1935, E. B. Swanson to W. J. Brundred	1287 1735 1841	3519
D 916	(for identification) Telegram, May 14, 1935, Charles Fahy to C. E. Arnott; and telegram, May 17, 1935, C. E. Arnott to Charles Fahy	1287 1735 1841	3520
D 917	(for identification) Excerpts from Annual Report of the Secretary of the Interior, June 30, 1935 (Reference to)	1290	3522
D 917-A	Letter of transmittal, Nov. 30, 1935, of Annual Report, Harold L. Ickes to President, and excerpts from Annual Report of Secretary of Interior, June 30, 1935	1679	3522

Exhibit No.		Rec'd in evidence at page	Reproduced at page
D 918	(for identification) Identical with Defendants' Exhibit 924 for identification (Report of Petroleum Code Survey Committee on Small Enterprises) (Reference to)	1320	3526
D 919	(for identification) Five identical letters, March 26, 1935, Harold L. Ickes to members of Petroleum Code Survey Committee on Small Enterprises	1321	3527
D 921	(for identification) Telegram, April 23, 1935, Charles Fahy to Paul C. Blazer	1321	3528
D 922	(for identification) Telegram, April 23, 1935, Paul G. Blazer to Charles Fahy	1322	3528
D 923	Press release, May 7, 1935, by Department of the Interior	1324	3529
D 924	(for identification) Press release, March 28, 1935, by Department of the Interior, concerning and attaching Report of Petroleum Code Survey Committee on Small Enterprises	1324	3530
D 925	Letter, May 9, 1935, W. J. Brundred to Charles Fahy	1355	3581
D 926	Tabulation of spot sales by Continental Oil Company to jobbers in Mid-Western area, 1935 and 1936	1369	3582
D 927	Stipulation of testimony of George Collins concerning Omar Refining Company gasoline production and sales, Feb. 1, 1935 to Dec. 31, 1936, with tabulation of figures attached	1370	3587

Exhibit No.		Rec'd in evidence at page	Reproduced at page
D 928	Stipulation of testimony of M. L. Smith concerning Kanotex Refining Company gasoline production and sales, 1934-1936, with tabulation of figures attached	1370	3588
D 929	Stipulation of testimony of L. D. Hinman concerning Eason Oil Company gasoline production and sales, 1934-1936, with tabulation of figures attached	1370	3590
D 930	Stipulation of testimony of James D. Miller concerning Black Gold Refining Company gasoline production and sales, 1934-1936, with tabulation of figures attached	1370	3592
D 931	Tabulation of Cosden Petroleum Corporation gasoline production and sales, 1934-1936	1371	3594
D 932	Tabulation of Sun Company gasoline production and sales, 1934-1936	1373	3595
D 933	Tabulation of Rodessa Oil and Refining Corporation gasoline production and sales, Oct. 1935 to Dec. 1936	1374	3596
D 934–935	Tabulation of Deep Rock Oil Corporation gasoline production and shipments, 1934-1936	1375	3597
D 936	Map showing freight rates from various refining areas compared with rates from Group 3	1367 1396	3601
D 937	Map showing freight rates from various refining areas to Madison, Wisconsin, compared with freight rates from Group 3	1415	3605

Exhibit No.		Rec'd in evidence at page	Reproduced at page
D 938	Map showing principle navigable waterways supplying Mid-Western area	1419	3609
D 939 and 941	Tabulation of daily refining capacities of various types of refineries which supply Mid-Western area, as of Jan. 1, 1935 to Jan. 1, 1936	1445	3611
D 940 and 942	Tabulation of daily refinery capacities of various types of refineries surrounding Standard of Indiana territory, as of Jan. 1, 1935 and Jan. 1, 1936	1445	3624
D 946	Tabulation of monthly United States gasoline domestic demand and export shipments, 1935-1936	1476	3635
D 947	Chart comparing annual gasoline consumption in Mid-Western area with total United States, 1930-1936	1478	3639
D 948	Tabulation comparing monthly Government forecast of United States gasoline demand with actual consumption, 1935-1936	1480	3641
D 949	Tabulation of monthly United States gasoline inventories, 1935-1936	1483	3642
D 950	Tabulation of days' supply of finished gasoline in United States, 1935-1936	1486	3643
D 951	Tabulation of United States monthly recommended crude oil production compared with actual production, 1935-1936	14[illegible]	3644

Exhibit No.		Rec'd in evidence at page	Reproduced at page
D 952	Tabulation of United States monthly crude oil inventories, 1935-1936...	1488	3645
D 953	Charts showing for 1935-1936 (1) gasoline prices f.o.b. Group 3, (2) crude oil posted prices, (3) United States gasoline domestic demand and exports, (4) United States estimated gasoline demand compared with actual demand, (5) monthly gasoline inventories, and (6) days' supply of finished gasoline	1503	3649
D 954	Charts showing for 1935-1936 (1) gasoline prices f.o.b. Group 3, (2) crude oil posted prices, (3) United States recommended crude production compared with actual production, (4) United States crude oil inventories, and (5) United States crude oil inventory changes.....	1503	3653
D 955	(for identification) Chart of gasoline prices, 1918-1936, of major marketing companies, average 50 United States cities, compared with monthly average United States crude oil prices	1518	3657
D 956	(for identification) Charts showing wholesale price relatives of gasoline and other commodities, 1926-1936, by years	1520	3661
D 957	(for identification) Charts showing wholesale prices relatives of gasoline and individual commodities, 1926-1936, by years	1520	3665

Exhibit No.		Rec'd in evidence at page	Reproduced at page
D 958	(for identification) Chart of gasoline tank wagon prices compared with cost of living and wholesale prices of all commodities in United States, 1918-1936	1520	3669
D 959	(for identification) Chart comparing United States gasoline tank wagon prices with wholesale dairy products prices, 1918-1936	1520	3673
D 960	Tabulation—Derby Oil Company gasoline production and sales, 1934-1936	1537	3676
D 961	Stipulation of testimony of C. G. Stokes concerning Olney Oil and Refining Company gasoline production and sales, 1934-1936, with tabulation of figures attached	1536	3678
D 962	Stipulation of testimony of J. P. Dyer concerning Bell Oil and Gas Company gasoline production and sales, 1934-1936, with tabulation of figures attached	1536	3680
D 963	Stipulation of testimony of William E. Conway concerning Shamrock Oil and Gas Company gasoline production and sales, 1934-1936, with tabulation of figures attached	1536	3682
D 964	Stipulation of testimony of James D. Miller concerning Champlin Refining Company gasoline production and sales, 1934-1936, with tabulation of figures attached	1536	3684

Exhibit No.		Rec'd in evidence at page	Reproduced at page
D 965	Stipulation of testimony of G. E. Dahlen concerning Danciger Oil and Refineries, Inc. gasoline production and sales, 1934-1936, with tabulation of figures attached.....	1536	3686
D 966	Stipulation of testimony of J. H. Sheehan concerning Lion Oil Refining Company gasoline production and sales, 1934-1936, with tabulation of figures attached.....	1536	3688
D 967	Letter, Franklin D. Roosevelt to C. E. Arnott	1687	3690
D 968	Extract from press release issued Nov. 14, 1934, by Department of the Interior, of speech by Harold L. Ickes before American Petroleum Institute, Nov. 14, 1934.....	1696	3690
D 969	Letter, Feb. 20, 1935, C. E. Arnott to Charles Fahy	1729	3692
D 970	Telegram, May 1, 1935, C. E. Arnott to H. W. Dodge	1732	3693
D 971	(for identification) Telegram, May 17, 1935, Charles Fahy to C. E. Arnott	1735	3693
D 972	(for identification) Letter May 7, 1935, E. B. Swanson to S. M. Vockel	1735	1349 3694
D 973	(for identification) Letter, May 17, 1935, E. B. Swanson to James J. Davis	1735 1841	1353 3695
D 974	Certified copies of orders appointing members of Petroleum Administrative Board and stating the qualifications, status, duties and powers of each member	1341	3696

Exhibit No.		Rec'd in evidence at page	Reproduced at page
D 975	Telegram, May 28, 1935, Charles Fahy to C. E. Arnott	1736	3716
D 976	Letter, June 3, 1935, Charles Fahy to C. E. Arnott	1736	3716
D 977	Letter, June 12, 1935, C. E. Arnott to Charles Fahy	1736	3717
D 978	Press release, Sept. 18, 1933, by Department of the Interior, setting forth speech of Harold L. Ickes before Planning and Coordination Committee	1739	3718
D 979	Letter, July 25, 1935, Harold L. Ickes to C. E. Arnott	1739	3721
G 980	Letter, April 2, 1935, Harold L. Ickes to C. E. Arnott	1739	3722
D 984	Stipulation of tank car purchases by Standard Oil Company (Indiana) from independent refiners in East Texas and Mid-Continent fields, 1931-1936	1808	3723
G 985	Telegram, July 10, 1935, Waggoner Refining Company, Inc. to A. V. Bourque	1818	3734
G 986	Letter, Oct. 2, 1935, Dale W. Moore Oil Company to Waggoner Refining Company, Inc., attention Dave Gray	1819	3734
D-988	Certificate by Harold L. Ickes of appointment of Charles Fahy as chairman of Petroleum Administrative Board, together with document describing his qualifications and duties	1341	3735

Exhibit No.		Rec'd in evidence at page	Reproduced at page
D 989	Stipulation of testimony of J. W. Steele relative to East Texas refineries operating on Federal tenders between March 1, 1935 and Dec. 31, 1936, as shown on Exhibit A attached thereto	1830	3737
D 990	Stipulation of testimony of James D. Miller concerning Dickey Oil and Refining Company gasoline production and sales, 1934-1936, with tabulation of figures attached	1830	3740
D 991	Stipulation of testimony of M. A. Chambers concerning Panhandle Producing and Refining Company gasoline production and sales, 1934-1936, with tabulation of figures attached	1679 1830	3742
D 992	Stipulation of testimony of M. P. Appleby concerning Wilcox Oil and Gas Company gasoline production and sales, 1934-1936, with tabulation of figures attached	1830	3744
D 993	(for identification) Letter, April 30, 1935, Paul G. Blazer to Charles Fahy	1830	3746
D 994	(for identification) Letter, May 7, 1935, Chairman of Petroleum Administrative Board to Paul G. Blazer	1830	3748
D 995	Letter, March 30, 1935, Harold L. Ickes to B. P. Lientz	1831	3749
D 996	Telegram, Jan. 6, 1938, Harold L. Ickes to R. A. Irvine	1342	3750

Exhibit No.		Rec'd in evidence at page	Reproduced at page
D 997	Stipulation of testimony of Harold F. Parsons concerning attached data pertaining to Tide Water Oil Company of New Jersey gasoline production and sales, 1932-1936, and other information	1599 1844	3751
D 998	Stipulation of testimony of R. E. Everitt as to minimum stocks and market facilities of Globe Oil & Refining Companies	1609	3756
D 999	Tabulation of gasoline production, purchases, shipments, and inventories, Globe Oil & Refining Company (Oklahoma) and (Illinois), Jan. 1, 1933 to Aug. 31, 1937	1609	3757
D 1000	Tabulation of tank cars of gasoline purchased by Globe Oil & Refining Company (Oklahoma), Jan. 1, 1930 to Aug. 31, 1937, and by Globe Oil & Refining Company (Illinois), Jan. 1, 1933 to Aug. 31, 1937	1609	3762
D 1002	Summary of purchases by three Globe Companies, Jan. 1933 to Aug. 1937, from independent refiners and from other refiners and brokers	1609	3767
D 1003	Tabulation of crude oil runs to stills by Globe Oil & Refining Company plants, Jan. 1, 1931 to Aug. 31, 1937	1609	3768
D 1004	Tabulation of flat price purchases from independent refiners, Group 3, 1935-1936, by Globe Oil & Refining Company (Oklahoma) and (Illinois)	1610	3770

Exhibit No.		Rec'd in evidence at page	Reproduced at page
D 1008	Chart of gasoline shipments, manufacture, and casinghead and refined gasoline purchases by Globe Oil & Refining Companies, 1933-1937....	1612	3775
D 1009	Tabulations showing comparison of Pure Oil Company's gasoline purchases from Eason Oil Company with Eason Oil Company sales, 1935-1936	1614	3777
D 1010	Tabulation showing comparison of Pure Oil Company's gasoline purchases from Omar Refining Company with Omar Refining Company sales, 1935-1936	1614	3779
D 1011	Chart of purchases by defendant Companies from East Texas refiners, compared with Oilgram East Texas quotations for 1935	1617	3783
D 1012	Stipulation of testimony of Roy W. Dalby concerning gasoline shipped from Texas to Acme Petroleum Company in 1934, with Exhibit A attached	1619	3785
D 1013	Chart showing gasoline service station prices in Mid-Western area compared with the rest of the United States	1628 1679	3791
D 1014	Chart showing daily variations from average normal posted service station price in 28 representative Mid-Western cities, 1934-1936	1633	3795

Exhibit No.		Rec'd in evidence at page	Reproduced at page
D 1015	Tabulation—Sinclair Refining Company purchases in Mid-Continent field, Jan. 1, 1935 to April 30, 1936.	1636	3797
D 1016	Tabulation—operating refinery capacity of defendant companies compared with total United States operating capacity, as of Jan. 1, 1935 and Jan. 1, 1936	1535	3798
D 1023 (1017–1022)	Chart showing volume of East Texas and Mid-Continent gasoline sales and purchases by all East Texas independent refiners, 29 Mid-Continent independent and semi-major refiners, East Texas independent refiners named in the indictment, and Mid-Continent independent refiners named in the indictment, in 1935 and 1936.....	1644 1646 1679	3803
D 1024	Chart of flat price purchases of regular and third grade gasoline, Group 3, Oklahoma refiners, by defendant major oil companies and by jobbers and consumers, compared with 1935 journal quotations	1679	3807
D 1025	Tabulation—summary f.o.b. Group 3 Oklahoma refinery flat price purchases by defendant companies from independent refiners and brokers of regular and third grade gasoline, compared with Chicago Journal of Commerce quotations, Jan. 1, 1935 to April 30, 1936.....	1663	3809

Exhibit No.		Rec'd in evidence at page	Reproduced at page
D 1026	Tabulation—summary f.o.b. Group 3 Oklahoma refinery flat price purchases by defendant companies from independent refiners and brokers of third grade and regular gasoline, compared with Platt's Oilgram quotations for Oklahoma refinery market, Jan. 1, 1935 to April 30, 1936	1663	3810
D 1027	Tabulation—operating refinery capacity, Tide Water Associated Oil Company, Gulf Refining Company, The Texas Company and Deep Rock Oil Company, as of Jan. 1, 1935 to Jan. 1, 1936	1536	3811
D 1028	Stipulation concerning gasoline sales by defendant companies in Mid-Western area, 1935 and first seven months of 1936	1536	3812
D 1029	(for identification) Certified copy, Order, June 23, 1934, by Harold L. Ickes, approving Pacific Coast Agency Agreement and Refiners' Agreement and supplemental agreements thereto	1680	3817
D 1030	(for identification) Certified copy, memorandum, March 22, 1935, Charles Fahy to Administrator of Petroleum Code	1678	3869
G 1031	Letter, Sept. 8, 1936, M. G. Peeters to Clayton W. Haswell, together with enclosure of letter, July 24, 1934, A. G. Maguire to Chairmen of State Petroleum Committees	1683	3874

Exhibit No.		Rec'd in evidence at page	Reproduced at page
G 1032	Tabulation—tank car shipments of refined gasoline from 34 independent refiners in East Texas, March 1, 1935 to March 3, 1936.....	1850	3878
G 1033	Tabulation—purchases of third grade gasoline by Sinclair Refining Company from independent refiners in East Texas, March 1, 1933 to April 30, 1936	1850	3882
G 1034	Purchase order, Sept. 18, 1935, from Globe Oil & Refining Company (Illinois) to T. R. Vaughn	1864	3883
G 1035	Sales acknowledgment, Sept. 18, 1935, from T. R. Vaughn Oils to Globe Oil & Refining Company (Illinois).	1864	3885
D 1036	Letter, Sept. 26, 1935, Globe Oil & Refining Company to T. R. Vaughn Oils	1864	3886
D 1038	Letter, Sept. 20, 1935, J. M. Alexander to T. R. Vaughn Oils.....	1864	3888
D 1040	Identical with Gov. Ex. 1035, except handwritten notations (sales acknowledgment, Sept. 18, 1935, T. R. Vaughn Oils to Globe Oil & Refining Company (Illinois)) (Reference to)	1864	3890
G 1043	Stipulation concerning exhibits of Shell Petroleum Corporation.....	1876	3890
G 1044	Stipulation concerning Exhibits 24, 27 and 52	1876	3891
G 1045	Stipulation concerning documents of Clyde M. Boggs	1876	3891
G 1046	Stipulation concerning Exhibits 320,		

Exhibit No.		Rec'd in evidence at page	Reproduced at page
	321 and 329	1876	3891
G 1047	Stipulation concerning Exhibits 316-319	1876	3892
D 1048	Telegram, Jan. 14, 1938, R. E. Everitt to Ralph Horween	1878	3892
D 1049	Teletype, Globe Oil & Refining Company, Wichita, Kansas, to Globe Oil & Refining Company, Chicago, Illinois	1880	3892
D 1050	Letter, Oct. 4, 1935, W. H. Barber Company to Globe Oil & Refining Company, with enclosure of letter, Oct. 3, 1935, Illinois Farm Supply Company to W. H. Barber Company	1880	3893
D 1051	Letter, Oct. 7, 1935, W. H. Barber Company to Globe Oil & Refining Company	1880	3895
D 1052	Statement re purchase orders and invoices of Globe Oil & Refining Company (Oklahoma) and (Illinois), concerning sales at a loss in 1931 and 1933		3895
G 1053	Stipulation of testimony of H. Russell Richards concerning sales of gasoline by Continental Oil Company, with Exhibit A attached	1889	3896
D 1054	Statement re letter, Oct. 8, 1935, Globe Oil & Refining Company (Illinois) to Globe Oil & Refining Company (Oklahoma), and telephone statements from Aug. 21, 2935, through Sept. 25, 1935, attached	1878	3902
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5701 **DEFENSE EXHIBIT NO. 903.**

5702 **Planning and Coordination Committee**
Under the Code
For the Petroleum Industry

The Biggs National Bank
Washington, D. C.

June 18, 1935 Check No. 1550

Pay $322 Dol's 10 Cts. $322.10
to the order of R. W. McDowell

/s/ Fred Van Covern,
Assistant Treasurer.

5703 **Endorsements:**

This voucher is hereby accepted in in full payment of the within acct. and endorsement of payee shall oper. as a receipt and release accordingly, unless presented at the bank on which it is drawn within thirty days from date hereof. This check is voidable at the option of the maker
For Deposit only
/s/ R. W. McDowell

(Stamp)

Paid through Chicago Clearing House
3
Jun 28, 1935
To the Continental Ill. National Bank and Trust Company of Chicago Pay to the Order of any bank, or banker Prior endorsements guaranteed, Continental Ill. Bank & Trust Company.
Continental Illinois National Bank and Trust Company of Chicago

2-3 **2-3**

5704 June 11, 1935.

To Planning and Coordination Committee,
Washington, D. C.

To cover Telephone expenses in connection with Code work for the period ending June 5th, 1935 $322.10

Due R. W. McDowell, c/o Mid-Continent Petroleum Corporation, Tulsa, Oklahoma.

Pencil note—OK. J. D. Collett,
Chairman 6/15/35 Chg. Telep.

5705 Reverse Side

No. P & C. 1935 F-51

To R. W. McDowell
Sundry Credits.

Vouchers Audited	322.10
Cash Discount	
Total	

Sundry-Debits

To cover Telephone exp. in connection with Code work for period ending 6/5/35. Chg. Telep.	322.10
Total	

5706 June 18, 1935. Check No. 1550

Original Check Issued for

To $322.10
R. W. McDowell

Planning and Coordination Committee F-51

6/18/35 To cover Telephone exp. in connection with Code work for the period ending 6/5/35. 322.10

Vouchered by H. J. Sionssat

Irwin Lamp.

5707 **GOVERNMENT EXHIBIT NO. 904.**

Article from Chicago Journal of Commerce for June 8, 1935.

President Puts O. K. on Trade Profit

Cautions Against Anti-Trust Law Violations

Washington, June 7.—President Roosevelt, at his press conference today advised giving honest business a chance to make a reasonable profit. He favored greater distribution not only of wealth in a narrow sense, but of happiness and security.

He further said anti-trust laws do not bar voluntary codes but emphasized the fact that those laws are in full effect and cannot be waived. Asked whether price maintenance agreements are out, he replied, "Yes, if they are against the anti-trust law."

Outline Social Objective

In response to a question from a representative of the Canadian press, the President asked, first, whether that was going to help in the Canadian election. Then he said, in a more serious vein:

"The social objective, I should say, remains just what it was, which is to do what any honest government of any country would do; to try to increase the security and the happiness of a larger number of people in all occupations of life and in all parts of the country; to give them more of the good things of life; to give them a greater distribution, not only of wealth in the narrow terms but of wealth in the wider terms; to give them places to go in the
5708 summer time—recreation; to give them assurance that they are not going to starve in their old age; to give honest business a chance to go ahead and make a reasonable profit, and to give everyone a chance to earn a living.

"It is a little difficult to define it and I suppose this is a very offhand definition, but unless you go into a long discussion, it is hard to make it more definite. I think, however, that we are getting somewhere toward our objective."

"Must" List Not Prepared

President Roosevelt said he has no list of "must" legislation prepared. He spoke of five measures before in a radio speech but said even those five were not considered must but were what he called desirable.

"There will undoubtedly be additions to that list of five," he said.

Asked about the constitutionality of his reciprocal trade agreements program, the President said he didn't think there was any question about it, but it depends on the lawyer you hire.

He declined comment on pending oil legislation, but added that he had no objection to ratification of state compacts and hoped they would work. There are six states in the present compact, he pointed out, and eight or ten others produce oil. He thought there should be some method of protecting the six in the compact from the eight or ten outside. An oil state compact might be all right, he thought, if it included all states and if they all lived up to it.

Price Agreements Discussed

The President declined to state flatly whether price maintenance agreements would be illegal, now that the NRA codes have been invalidated. In answer to a question, he said price pacts would not be permitted if they conflicted with the anti-trust law.

5709 The expiration of the codes, he pointed out, meant that the country went back of necessity to its fundamental statutes and that he was sworn to uphold those statutes.

He is fully in favor of voluntary codes as long as they do not run counter to the statutory law, and his offhand opinion is that industry can agree on voluntary codes under anti-trust laws.

(Comments on A. F. of L. and inheritance taxes are not printed.)

5710

DEFENSE EXHIBIT NO. 910.

5711

HOUSE-BRAND GASOLINE

Number of Subnormal Prices—Year 1934

As of	Total		1¢ or less		1¢ to 2¢		2¢ to 3¢		3¢ to 4¢		Over 4¢	
	T.W.	S.S.	T.W.	S.S.	T.W.	S.S.	T.W.	S.S.	T.W.	S.S.	T.W.	S.S.
Jan. 31	24	62	6	23	3	19	7	12	3	3	5	5
Feb. 22	18	73	6	29	5	22	3	14	3	5	1	3
Mar. 29	11	70	1	23	3	19	3	17	2	7	2	4
Apr. 28	62	410	9	53	18	154	31	131	6	51	3	21
May 31	96	548	13	56	32	214	40	197	8	73	3	8
June 30	240	993	154	287	47	317	25	277	11	93	3	19
July 30	339	1,137	205	407	64	317	42	240	23	142	5	31
Aug. 31	433	1,327	232	447	129	570	32	128	22	140	18	42
Sept. 28	176	516	139	313	10	100	7	45	15	15	5	43
Oct. 31	494	1,097	389	544	53	236	29	91	13	103	10	123
Nov. 30	550	1,288	358	440	58	294	59	234	45	110	30	210
Dec. 17	448	820	346	349	68	210	18	113	13	104	3	44
Dec. 31	418	781	355	349	45	237	13	118	4	56	1	21

"T.W." means Tank Wagon Price to Consumers
"S.S." means Service Station Price to Consumers.

5712

Number of Subnormal Prices—1935

January 31	370	497	363	388	4	72	3	25	—	10	—	2
February 28	363	477	358	391	3	63	2	20	—	3	—	—
March 31	13	93	8	39	3	40	1	14	1	—	—	—
April 30	20	92	9	35	6	41	4	14	1	2	—	—
May 31	18	86	5	33	11	36	2	15	—	2	—	—
June 30	22	95	10	45	8	33	3	15	—	2	1	—
July 31	46	107	13	29	20	63	4	13	—	2	—	—
August 31	32	68	11	22	12	29	9	15	—	2	—	—
September 30	360	460	339	341	10	43	2	5	9	11	—	—
October 31	364	405	340	337	12	47	2	7	10	14	—	—
November 30	360	403	340	335	8	46	2	6	10	16	—	—
December 31	363	409	345	334	8	51	1	7	9	17	—	—

"T.W." means Tank Wagon Price to Consumers
"S.S." means Service Station Price to Consumers

5713

Number of Subnormal Prices—Year 1936

Jan. 31	364	418	343	337	9	58	1	5	12	18	—	—
Feb. 29	364	421	342	336	10	58	1	7	11	20	—	—
Mar. 31	366	412	342	333	10	49	—	7	14	23	—	—
Apr. 30	372	413	341	365	13	16	2	8	16	24	—	—
May 31	375	425	341	363	14	20	20	35	—	7	—	—
June 30	381	434	16	44	342	344	23	38	—	8	—	—
July 31	374	435	13	46	338	344	23	37	—	8	—	—
Aug. 31	379	441	14	48	340	343	25	41	—	9	—	—
Sept. 30	374	1	112	—	260	—	2	—	—	1	—	—
Oct. 31	370	3	112	3	255	—	3	—	—	—	—	—
Nov. 30	367	—	113	—	230	—	24	—	—	—	—	—
Dec. 31	47	—	24	—	23	—	—	—	—	—	—	—

"T.W." means Tank Wagon Price to Consumers.
"S.S." means Service Station Price to Consumers.

5714 **DEFENSE EXHIBIT NO. 911.**

5715 **THIRD GRADE GASOLINE**

Number of Subnormal Prices—Year 1934

As of	Total		1¢ or less		1¢ to 2¢		2¢ to 3¢		3¢ to 4¢		Over 4¢	
	T.W.	S.S	T.W.	S.S	T.W.	S.S	T.W.	S.S	T.W.	S.S	T.W.	S.S
January 31	555	330	33	96	191	123	191	72	119	34	21	5
February 22	588	369	35	108	196	135	192	78	145	44	20	4
March 29	351	479	26	98	86	147	161	109	62	67	16	58
April 28	873	948	65	139	229	310	276	255	238	129	65	115
May 31	915	968	62	123	238	289	327	284	221	157	67	115
June 30	1,090	1,353	241	353	277	370	308	326	199	177	65	127
July 30	1,237	1,452	289	413	263	372	332	319	244	200	109	148
August 31	1,330	1,615	358	457	618	775	245	252	88	86	21	45
September 28	798	846	444	488	280	193	53	73	5	59	16	33
October 3	980	1,224	559	566	334	337	71	144	13	108	33	69
November 30	1,028	1,349	416	505	405	404	174	167	26	128	7	125
December 17	673	887	288	367	237	267	122	117	22	60	4	76
December 31	619	853	275	361	220	281	109	95	13	59	2	57

"T.W." means Tank Wagon Price to Consumers
"S.S." means Service Station Price to Consumers

5716 **Number of Subnormal Prices—Year 1935**

January 31	593	673	279	352	201	183	103	49	8	52	2	37
February 28	575	632	292	359	193	157	84	58	6	38	—	20
March 31	268	272	62	101	116	55	85	66	4	36	1	14
April 30	363	281	124	102	164	59	68	81	66	30	1	9
May 31	390	315	107	130	188	63	87	73	7	43	1	6
June 30	433	329	74	125	204	69	143	66	11	41	1	28
July 31	560	329	75	84	242	84	199	88	44	44	—	29
August 31	661	325	92	88	405	82	155	71	9	62	—	22
September 30	794	624	397	401	285	89	97	51	15	58	—	22
October 31	844	660	405	418	305	103	120	53	14	63	—	23
November 30	776	672	393	413	266	117	103	53	14	64	—	25
December 31	780	678	391	412	271	116	108	58	10	66	—	26

"T.W." means Tank Wagon Price to Consumers
"S.S." means Service Station Price to Consumers

5717 **Number of Subnormal Prices—Year 1936**

Jan. 31	775	693	384	414	263	126	113	60	15	68	—	25
Feb. 29	772	708	383	420	257	133	117	58	15	70	—	27
Mar. 31	790	682	386	418	242	108	145	61	17	66	—	29
Apr. 30	928	699	386	417	293	111	227	65	22	75	—	31
May 31	1,085	719	418	410	338	118	295	72	34	84	—	35
June 30	1,185	751	111	94	800	448	273	143	1	63	—	3
July 31	1,208	763	232	95	666	450	299	137	11	66	—	15
Aug. 31	1,247	755	217	95	683	433	334	135	13	77	—	15
Sept. 30	1,158	4	407	11	628	—	122	1	1	2	—	—
Oct. 31	1,158	4	399	1	646	—	112	1	1	2	—	—
Nov. 30	954	1	307	1	548	—	99	—	—	—	—	—
Dec. 31	533	—	154	—	383	—	16	—	—	—	—	—

"T.W." means Tank Wagon Price to Consumers
"S.S." means Service Station Price to Consumers

5718 **DEFENSE EXHIBIT NO. 912.**

5719 **HOUSE BRAND GASOLINE**

Number of Subnormal Prices to Dealers—Year 1935 and 1936

As of	Total	1¢ or less	1¢ to 2¢	2¢ to 3¢	Over 3¢
1935					
July 31	27	15	11	1	—
August 31	31	17	13	1	—
September 30	32	17	13	2	—
October 31	30	17	13	—	—
November 30	30	19	11	—	—
December 31	34	21	13	—	—
1936					
January 31	35	22	11	2	—
February 29	34	23	11	—	—
March 31	33	21	12	—	—
April 30	36	24	12	—	—
May 31	37	24	13	—	—
June 30	39	26	13	—	—
July 31	—	—	—	—	—
August 31	13	8	5	—	—
September 30	406	113	280	12	1
October 31	417	117	288	11	1
November 30	422	121	265	35	1
December 31	78	31	43	4	—

5720 **DEFENSE EXHIBIT NO. 913.**

5721 **THIRD GRADE GASOLINE**

Number of Subnormal Prices to Dealer—Year 1935 and 1936

	Total	1¢ or less	1¢ to 2¢	2¢ to 3¢	Over 3¢
1935					
July 31	35	17	13	4	1
August 31	46	19	20	5	2
September 30	47	20	19	5	3
October 31	48	22	18	5	3
November 30	43	21	14	5	3
December 31	45	21	16	5	3
1936					
January 31	47	21	15	8	3
February 29	45	20	16	6	3
March 31	45	20	16	6	3
April 30	46	20	17	6	3
May 31	49	19	18	9	3
June 30	46	19	14	12	1
July 31	56	21	19	13	3
August 31	57	21	20	13	3
September 30	611	163	296	120	32
Octob 31	632	171	304	122	35
November 30	636	170	307	124	35
December 31	289	59	188	38	4

5722 **DEFENSE EXHIBIT NO. 914.**

For Identification.

(From the Final Report of the Marketing Division, Petroleum Administrative Board, Issued June 1936.)

Stabilization

By the middle of 1934, many retail price wars in different parts of the country had developed into a serious problem. Rebating and secret discounting in violation of the code were usually prevalent, in the affected areas and rules 3, 4, 6 and 17 were most flagrantly violated. After these matters were brought to the attention of the Administrator, he wrote on July 20, 1934, to the chairman of the Marketing Subcommittee of the Planning and Coordination Committee authorizing the establishment of local committees to deal with gasoline price wars and to negotiate settlements in the areas affected. This letter read in part:

The market for gasoline and other petroleum products has recently been disturbed by numerous price wars in many different localities and states. This has resulted in causing petroleum products to be sold below cost in some areas in order to meet unrestrained competition and has in turn depressed the wholesale market for such products, thereby leading to the building up of surplus and to the economic and physical waste consequent thereof.

Such conditions have a strong tendency toward, and in many instances have resulted in, the payment of wages below the minimum established by the code, and in the working of employees for a period beyond the maximum hours provided for by it. Furthermore, price wars necessarily injure small independent marketers who are unable to dispose of their products profitably when prices sink to ruinous levels. It would appear, therefore, that we are faced with conditions which would, if uncontrolled, tend to frustrate the purposes of the National Industrial Recovery Act by increasing unemployment, reducing standards of labor, and preventing the rehabilitation of the industry, which the act was intended to achieve.

I am, therefore, requesting you, as chairman of the Marketing Committee of the Planning and Coordination Committee, to take action which we deem necessary to
5723 restore markets to their normal conditions in areas where wasteful competition has caused them to be-

come depressed. The number and extent of these situations would make it impractical for the Petroleum Administrative Board acting alone to deal with each specific situation. Therefore, I am requesting and authorizing you, as chairman of the Marketing Committee, to designate committees for each locality when and as price wars develop, with authority to confer and to negotiate and to hold due public hearings with a view to ascertaining the elements of conflict that are present, and in a cooperate manner to stabilize the price level to conform to that normally prevailing in contiguous areas where marketing conditions are similar. Any activities of your committee must, of course, be consistent with the requirements of clause 2 of subsection (a) of section III of the act, and if in any situation it should appear that this section is not being complied with, the matter should be referred to the Petroleum Administrative Board.

The event that led up to the Administrator's request was a series of unsuccessful attempts on the part of the Board and the code committees to secure settlements of retail price controversies. The Planning and Coordination Committee had substituted for its proposal for retail price fixing the national marketing agreement which had not been approved by the industry or by the Administrator. In view of these conditions the purpose of the Administrator's letter was to request the industry, within the limits of existing law to undertake to stabilize markets with a view to achieving the purposes of the Recovery Act.

The chairman of the marketing subcommittee of the Planning and Coordination Committee effectuating the request of the Administrator organized a General Stabilization Committee and authorized the chairman of each regional marketing committee to instruct the various State code committee chairmen to appoint State stabilization committees wherever necessary. The general stabilization committee consisted principally of men who also served on the marketing committee. The State stabilization committees, where organized, were usually representative of each type of marketer. An attempt was made to have integrated marketers, independent jobbers, trackside operators, cooperatives, and retailers fairly and equitably represented. Sometimes the members of State stabilization committees were also members of State code committees, but many of the "independents" had not previously been active on code or industry committees.

The interest and support of each marketer was found essential to carry out successfully stabilization activities.

Furthermore, since each marketer knew the direct monetary benefits of stabilized and normalized market price structures, keen enthusiasm usually accompanied
5724 marketers' entrance on stabilization activities. The industry with a few exceptions seemed to welcome this opportunity of getting together in an attempt to solve their price problems, consequently the committees were very active. Wherever such committees were formed (particularly in region 3) they appeared almost to supersede the code committees in prominence and in interest. There was evidence that several State code committees practically ceased to function the last 8 or 10 months of the code.

It was customary to have local or zone stabilization committees for each section involved in a price war. The local chairman was sometimes a member of the State committee, invariably a "keyman" locally. Much of the burden of settling local price wars rested on the local chairman. The State committee cooperated and served as a clearing house for all price war problems within the State. The general committee's activities largely covered matters of general policy and marketing practices. Many marketers felt that price wars were results of conflicting policies, especially since among the larger companies marketing policies were varied. There were no jobber or retailer representatives on the general stabilization committee, and frequently meetings were held by that committee with refiners, integrated and nonintegrated, without jobbers or retailers in attendance. Because of discussions of policies affecting jobbers and retailers at such meetings there was considerable criticism by those two groups of the way the General Stabilization Committee was functioning. Early in April 1935 a "steering committee" was organized in region 3 to coordinate the work of the various State stabilization committees with the general stabilization committee to help enforce stabilization in the Middle West. The steering committee included representatives of jobbers, retailers, and unbranded marketers. This change in representation contributed to regaining some jobbers', retailers', and unbranded marketers' support for the stabilization program. General matters of policy were considered by the steering committee, but they could take no final action on any such policy until the matter had been approved by the general stabilization committee. State stabilization committee chairmen were directed to clear all problems their committees could not settle, through the steering committee. The members of the steering committee were expected to attend all general stabilization committee meetings which, here-

tofore, had been attended only by refiners marketing in the areas involved who had been invited by the chairman, and usually by a representative of the board.

Numerous complaints of the activities of the stabilization committees were received by the Board. Charges were made that all parties of interest were not properly represented on the committees, that the committees were exceeding their authority, and that the recommendations of the general committee were sometimes interpreted as in-
5725 structions, which was not satisfactory, especially to those groups that were not present at the meetings when such recommendations were made. Compliance by the participating companies with these recommendations was, of course, voluntary. The Administrator placed certain limitations on the activities of the stabilization committees in his letter of April 22, 1935, to the chairman. Three conditions were set forth:

1. No meeting under the stabilization program for the purpose of joint discussion, general voluntary action, or negotiation of a formal industrial agreement or understanding shall be held except with my representative or representatives in attendance at such meeting.

2. All interests affected by any such prospective discussions, action, or agreement shall have an opportunity to be heard before any action is taken.

3. No "orders" or general instructions purporting to be under the authorization contained in my letter of July 20, 1934, shall be issued.

A number of general stabilization committee meetings were held in Chicago and several other cities in the Middle West, which region was the scene of the greatest activity during the stabilization period. A few meetings were also held in New York and one or two other eastern cities. Among the specific recommendations issued by the general chairman were several pertaining to fundamental problems of the marketing branch of the oil industry.

On September 11, 1934, one large marketing company in the Middle West adjusted its normal posted retail prices to within 5½ cents of the delivered tank-car price, plus taxes and inspection fees. Heretofore the distribution spread varied in normal markets between 6 and 7 cents, of which the dealer received 4 cents and the distributor the balance. This adjustment in the retail-price structure did not affect the dealers' margin; it merely lessened the spread to the jobber-distributor. One of the first problems of the General Stabilization Committee was how to bring about an equitable distribution of the 5½-cent spread between the

dealer and the distributor. After several meetings, a recommendation was proposed by the general chairman providing for a reduction of dealers' margins from the prevailing 4-4-3 schedule to 3½-3½-2½ with a further reduction of ½ cent in case of a subnormal market. This became effective December 1, 1934, in all States in region 3 except
5726 Michigan, which followed April 1, 1935. This action brought some relief to jobbers, for it increased their normal margin by ½ cent. Jobbers, however, felt their margin should be even larger and they continued to work for a further increase throughout the remaining days of the code. Dealers felt the large companies had acted unreasonably in reducing their margins, especially when the dealers had no voice in the discussions which took place in stabilization meetings.

There were many factors involved in stabilization, complexities merged in confusion, varied factions had to be reconciled to a common purpose, nevertheless, the program was definitely showing beneficial results to the refiners; the independent refiners particularly. They or their representatives had attended the general committee meetings, and for the first time in the history of the oil industry there was evidence of cooperation between large and small refiners in the Mid-Continent in the matter of marketing policies. It was anticipated that equitable solutions to jobbers' and dealers' margin problems would have been worked out if the activities had not been curtailed by the abrogation of the Oil Code.

Other recommendations of the general chairman which were favorably acted upon by those present at the meetings involving the Middle West were:

1. A moratorium for a period of sixty days from February 12, 1935, on soliciting accounts or accepting new business from existing dealer outlets in Chicago. Upon expiration, it was not renewed.

2. At the conclusion of the December 6-9, 1934, session a moratorium on lease agreements or other contracts whereby any rental was paid to filling station dealers where a competitive gasoline was then being sold. Existing leases could be renewed, but companies could not convert their dealer accounts to lease accounts. This moratorium was renewed on April 6, 1935 to July 15, 1935, principally "at the insistence of many small operators and the jobbing industry almost to a man."

Several recommendations submitted by the general chairman for acceptance by the industry in the Middle West were:

1. Selling to a cut-price marketer was destructive to stabilization activities.

2. In depressed price areas all suppliers should:

(a) supply dealers and jobbers with normal requirements only;

(b) confine sales at company stations, dealer and lease and agency stations to delivery into tank of automobiles only; i. e., not to fill barrels, tanks, etc.;

5727 (c) bulk-plant agents must not fill receptacles of cut-price marketers, dealers, or suppliers.

3. No unbranded cut-price marketer should be converted to branded goods until he had sold at normal prices for thirty days after a price disturbance had ceased.

4. No dealer should meet a reduced price unless the supplier should authorize him to meet the reduction and post the same at its bulk plant where deliveries are made.

5. Each supplier should follow the postings for the circuit points of the market maker.

6. Agents and salesmen should try to maintain posted prices and to confine depressed prices to a single area and that suppliers should be responsible for jobbers actions in following the uniform price policy and other provisions including price posting.

7. A standard commercial consumer discount schedule of 1½¢ per gallon per thousand gallons per month off the tank wagon price and was later revised in its application to purchases by the United States and by State and Political Subdivisions.

8. Branded third grade gasoline should not be sold with an octane rating greater than 56 with a tolerance of 1.

9. Suppliers should be responsible for all sales by their jobbers—the Jobber Control recommendation.

10. Sales to grain elevators (particularly in Kansas) should only be made "on the basis of the supplier being responsible for the sales policy of such reseller." The acceptance and adherence to these recommendations were deemed essential by the General Chairman if stabilization were not to fail.

Several "suggested rules of the game" were announced in connection with the recommendations on dealers' margins and the conversion of existing dealer accounts. These "rules" provided briefly, that—

1. No dealer now being served by tank wagon would be converted to a tank car basis.

2. No dealer being supplied by tank car would be converted to a tank wagon basis on a tank-car-plus arrangement.

3. No dealer or group of dealers would be provided with bulk facilities or appointed company's agents.

4. No jobber would be made a company's agent.

5728 As the various problems were offered for discussion at the general stabilization committee meetings, subcommittees were appointed to make recommendations among these subcommittees. 'One of the most important was the tank-car committee, which attempted to get the tank-car market raised more in line with the price of crude recovery cost on the theory that a firm tank-car market was essential to a stabilized retail structure. Other matters considered by subcommittees were: Jobber margins, uniform commissions for bulk-station agents, third-party cancelable leases, new retail outlets, extension of stabilization work to products other than gasoline, bona fide cooperatives, truck hauling by refineries, superlatives and other false advertising. When the Administrator removed his sanction of stabilization work due to the abrogation of the code, all of these matters were under consideration, but had not reached form for final action.

Some individuals complained against the activities of the stabilization committees. The National Association of Petroleum Retailers protested on the cut in dealers' margin. Several independent jobbers' associations charged that "under the guise" of stabilization a vast conspiracy existed to eliminate the independent jobbers and dealers from the industry.

The stabilization program was perhaps the outstanding development under the code. It received the support of most elements in the industry and it was effective to a greater degree in eliminating price wars and stabilizing prices and conditions than any other movement yet tried. In many areas the best price structure in years prevailed during the last 6 months of the code. Nearly all company representatives gave credit for this condition to the stabilization program.

Although no authority existed in the stabilization committee to enforce any of the recommendations which it might make, its recommendations were generally effective. This was largely because its aims and purposes were to maintain a uniform and profitable price structure by as nearly direct means as possible. Many critics of the code were ardent supporters of the stabilization program, feeling the code was cumbersome and the machinery for its enforcement so complex as to be ineffectual, but that the stabilization program went to the heart of the problem and was more effective. (pp. 120-125)

5729 **DEFENSE EXHIBIT NO. 915.**

For Identification.

(Certified by the Department of the Interior to be copy of duplicate original of a letter dated May 18, 1935, signed by E. B. Swanson and sent to W. J. Brundred.)

5730 Department of the Interior
Petroleum Administrative Board
Washington

May 18, 1935

Mr. W. J. Brundred, Vice President,
Central Pennsylvania Oil Producers Association
Oil City, Pennsylvania

Dear Mr. Brundred:

Mr. Fahy has asked me to acknowledge your letter to him of May 9, which I am doing by informing you of some developments here during the week.

Messrs. Vockel and Willey, on behalf of their own company and other Pennsylvania refiners were in Washington on Monday and Tuesday of this week and conferred at some length with Mr. Fahy, Dr. Frey and myself. As a result of these conferences it was felt that the Stabilization Committee of the Planning and Coordination Committee, which is under the chairmanship of Mr. C. E. Arnott, might be of definite assistance in connection with lubricants as they have been in connection with gasoline.

Following this thought, Mr. Fahy telegraphed to Mr. Arnott in Tulsa, and yesterday received a reply stating that Mr. Arnott would be in New York early next week and would take the matter up, and that he thought some good could be accomplished for the refiners and others in the Pennsylvania grade territory.

Very truly yours,
(signed) E. B. Swanson
For the Board
May 18, 1935

5731 **DEFENSE EXHIBIT NO. 916.**

For Identification.

(Certified by the Department of the Interior to be copies of duplicate original of telegram dated May 14, 1935 from Charles Fahy and sent to C. E. Arnott; and of telegram dated May 16, 1935 from C. E. Arnott to Charles Fahy.)

5732 **Petroleum Administration**
Washington, D. C.

May 14, 1935

Mr. C. E. Arnott
c/o American Petroleum Institute
Mayo Hotel
Tulsa, Oklahoma

S M VOCKEL AND G E WILLEY OFFICIALS WAVERLY OIL WORKS ON BEHALF OWN COMPANY AND OTHER SMALL PENNSYLVANIA REFINERS YESTERDAY AND TODAY PRESENTED DETAILED PICTURE REFINING SITUATION THEIR SECTION STOP PRESENT DISPARITY BETWEEN PENNSYLVANIA GRADE CRUDE AND REFINED PRICES UNDOUBTEDLY MAKES IMPOSSIBLE CONTINUED OPERATION SEVERAL PLANTS STOP PROBLEM THERE RELATED MORE TO STABILIZED MARKETS LUBRICANTS THAN GASOLINE STOP HOPE YOU CAN ARRANGE FOR PROMPT CONSIDERATION THIS PROBLEM BY STABILIZATION COMMITTEE LOOKING BOTH TO IMMEDIATE ADJUSTMENTS AS WELL AS LONG VIEW CORRECTION STOP WOULD APPRECIATE YOUR ASSISTANCE IN THIS SITUATION AS IT INVOLVES PLANTS OF LONG ESTABLISHMENT WHICH UNDOUBTEDLY HAVE NOT BENEFITED EQUALLY WITH OTHERS UNDER STABILIZATION PROGRAM BECAUSE OF THEIR DEPENDENCE ON LUBRICANTS RATHER THAN GASOLINE STOP PLEASE WIRE ME AS TO POSSIBILITY YOUR UNDERTAKING THIS

CHARLES FAHY

5733 1935 MAY 17

TULSA OKLA

CHARLES FAHY
LEMON BLDG NEWYORK AVE WASHDC

REPLYING YOUR TELEGRAM FULLY REALIZE SITUATION YOU REFER TO AND QUITE AGREE SOMETHING MUST BE DONE WILL GO INTO IMMEDIATELY ON MY RETURN TO NEWYORK NEXT WEEK AND FEEL CAN ACCOMPLISH SOMETHING CONSTRUCTIVE FOR REFINERS YOU MENTIONED AND OTHERS INTERESTED

C E ARNATT

5734 **DEFENSE EXHIBIT NO. 917.**
For Identification, and
DEFENSE EXHIBIT NO. 917A.

(From the Annual Report of the Secretary of the Interior for the year ended June 30, 1935.)

Exhibit 917 for Identification

The Code of Fair Competition for the Petroleum Industry was in effect during the entire fiscal year except the last 33 days thereof. Under the code, in conjunction with the success achieved beginning in October 1934 by the Federal Tender Board in sharply restricting movements in interstate commerce of illegal crude and gasoline, and particularly under the successful operations of the production and refinery provisions of the code, the petroleum industry as a whole achieved a balance between the production of crude oil and the manufacture of gasoline on the one hand and the requirements of the Nation for crude oil and gasoline on the other. This was the purpose of the production and refining provisions of the code. The theory of these provisions of the code, particularly the production provisions, and the amendments to the refinery provisions of April 24, 1934, was the balancing of supply with demand in the interest of conservation and of stability within the industry. As a necessary concomitant were the provisions of the code designed to regulate the development of new fields through the approval of plans designed to permit greatest ultimate recovery and economical and scientific development. (pp. 30-31)

The decision of the Circuit Court of Appeals for the Fifth District in the Panama and Amazon cases reversing the lower court and upholding the power of the Federal Government to require reports in the enforcement of section 9 (c) of the National Industrial Recovery Act, and upholding the validity of the section itself, permitted the reestablishment of Federal enforcement in east Texas. In July 1934 and again in August regulations requiring reports and affidavits were revised. However, by filing fraudulent affidavits of the legality of oil shipped and by failing to make reports, hot-oil producers continued to operate in violation of the law and a new means of enforcement of the section was sought resulting in October of 1934 in the creation
5735 of the Federal Tender Board under the authority of

section 9 (c) and the authority to make rules and regulations to carry out the provisions of the section. In lieu of the affidavits of legality required with shipments, certificates of clearance, issued by the Federal Tender Board, were required as a condition precedent to the movement of petroleum and petroleum products in interstate commerce out of east Texas. Conditions had become so serious that prices had begun to break the day the Tender Board was created. The immediately successful operations of this Board stemmed the flow of hot oil into interstate commerce and averted a collapse.

The Federal Tender Board set up a staff of examiners to check applications for tenders, to examine the books and records of refiners and pipe lines, and to make physical checks of the petroleum and petroleum products leaving the field. It set up an accounting staff, which maintained an effective accounting check on all operations in the field. Certificates of clearance, or tenders, were approved by the Federal Tender Board when the petroleum or petroleum products were shown on the basis of the applicant's reports, the accounting record, and the specific examination of examiners to have been produced in accordance with the quotas established by the Railroad Commission of Texas.

The Federal Tender Board functioned effectively until January 7, 1935, when the Supreme Court overruled the Circuit Court of Appeals in the Panama and Amazon cases and declared section 9 (c) invalid on the grounds of improper delegation of legislative power. The Board ceased functioning, and the litigation pending against it was dismissed. Movements of hot oil increased immediately. Additional State legislation authorizing the State to require certificates of clearance for petroleum products as well as for crude petroleum moving in intrastate and interstate commerce, had been passed. However, State Authority law alone still failed adequately to meet the situation and commerce in hot oil steadily increased. On February 22, 1935, the Connally law was passed by the Congress, eliminating the defects found by the Court in section 9 (c) by specifically prohibiting interstate or foreign commerce in hot oil. Federal Tender Board No. 1 was established under this law on March 1, 1935, and shortly thereafter Federal Petroleum Agency No. 1 was set up under the same law to perform the administrative and investigative functions in connection with the applications for approved tenders filed with Federal Tender Board No. 1. The Federal

tender system has functioned effectively since that
5736 time and has prevented any substantial movement in interstate commerce of hot oil for gasoline out of east Texas. This activity not only tended to check overproduction of crude petroleum but assisted in stabilizing the interstate refinery markets at a time when the intrastate Texas markets were thoroughly demoralized. Several attempts to enjoin the activities of the Board have been attempted without success.

During the summer and fall of 1934 wholesale prices for petroleum products were below parity with the current prices for crude petroleum, which presented a particularly serious problem to the non-integrated refiner. Several plans were projected by the industry to solve the difficulty, which was aggravated considerably by the excessive amount of hot oil and interstate movements of hot gasoline in interstate commerce. The planning and coordination committee proposed a form of contract designed to remove distress stocks in east Texas from the market. The form of contract was approved on June 23, 1934, and during the months of July and August gasoline in east Texas was purchased under this form of contract, to which the Administrator was a party and which provided that the sellers would not process "hot oil." This program proved insufficient, and a new form of contract for the purchase of current output was approved. But the production of gasoline from "hot oil" continued, stocks of gasoline mounted, wholesale prices for gasoline remained below parity with crude-oil prices, and in the early fall of 1934 the industry approached a serious collapse of the wholesale market. The planning and coordination committee appointed a program committee, which proposed a broad plan for the purchase of surplus gasoline with the purpose of also preventing illegal production of crude oil and providing a method of orderly marketing. The excessive amount of overproduction in Texas made the initiation of this program futile, and it was never put into operation. In October the Federal Tender Board was created in east Texas to enforce section 9 (c). Conditions immediately improved as a result, and from then forward the improvement continued, except for the period between the invalidation of section 9 (c) on January 7, 1935, and the enactment into new legislation of the principle of the Tender Board in the Connally Act on February 22, 1935. (pp. 35-37)

5737

EXHIBIT 917A.

Letter of Transmittal

The Secretary of the Interior
Washington, November 30, 1935.

Sir: I have the honor to transmit my annual report for the Department of the Interior for the fiscal year ended June 30, 1935.

Very respectfully,
Harold L. Ickes,
Secretary.

The President,
The White House.

(continuation of the above)

The operations of the Tender Board, of the production provisions of the code and refinery amendment, and of the stabilization committee of the planning and coordination committee with the cooperation of the Petroleum Administrative Board, brought the desired parity between the wholesale price of gasoline and crude oil in the spring of 1935. The work of the stabilization committee contributed very largely to the elimination of excessive marketing abuses which tended to keep the retail markets in an unsettled and unstable condition.

One of the difficult marketing problems of the year revolved around the question of price differentials as between different types of marketers. The stabilization committee, authorized by the Administrator in July, 1934, was successful in resolving many localized conflicts and in compromising issues which had brought on drastic price wars to the injury of many marketers caught in between the warring factions. Before the end of the winter markets generally throughout the midcontinent and eastern areas were fairly stable, and at the time of the invalidation of the code at the beginning of the high-consuming season, the industry
5738 as a whole had reached stability in markets, an even balance between production and demand in the case of both crude and gasoline, had achieved the best statistical position in many years, and entered upon a prosperous summer which has, in fact, proved to be the highest-consuming season in the history of the oil industry. Produc-

tion was under control throughout the Nation with some minor exceptions, the wholesale price of gasoline was in parity with the current price of crude, the refinery amendment had brought a balance between the manufacture of gasoline and the needs of the Nation therefor, the Connally Act had succeeded, as the original Tender Board had previously succeeded, in protecting interstate commerce from "hot oil" or gasoline, and markets were generally stable. (pp. 37-38)

5739 **DEFENSE EXHIBIT NO. 918.**

For Identification.

(Identical with Defense Exhibit No. 924 for Identification.)

5740 **DEFENSE EXHIBIT NO. 919.**

For Identification.

(Certified by the Department of the Interior to be duplicate originals of five letters dated March 26, 1935, signed by Harold L. Ickes and addressed to:

H. B. Fell, Executive Vice President, Independent Petroleum Association of America, 640 Shoreham Building, Washington, D. C.;

Mason Houghland, Spur Distributing Company, Nashville, Tennessee;

Robert E. Allen, Central Proration Committee of California, 1110 Security Title Insurance Building, Los Angeles, California;

Sidney Swensrud, Standard Oil Company of Ohio, Cleveland, Ohio;

Paul G. Blazer, Ashland Refining Company, Ashland, Kentucky.)

All identical with the following:

Letterhead of Administrator for the Petroleum Industry,
Washington, D. C.

"My dear Mr. :

I have received the report of the Petroleum Code Survey Committee on Small Enterprise of which you are a member, and I desire to express my appreciation of the service you have rendered in this very pressing and important matter. I know that the work of the Committee, to which you have devoted many days away from your own affairs, has not been easy. The acceptance by you of the responsibility of membership on the Committee is an instance of the needful type of cooperation between industry and Government so essential to the solution of the problems of the day.

I should be very glad if your Committee would consider itself still in existence, in order to observe the progress made along the lines of your recommendations and also to be available for consultation.

Sincerely yours,
(Signed) Harold L. Ickes
Administrator."

5741 **DEFENSE EXHIBIT NO. 921.**

For Identification.

(Certified by the Department of the Interior to be copy of telegram dated April 23, 1935, from Paul G. Blazer to Charles Fahy.)

5742 **Petroleum Administration**
Washington, D. C. April 23, 1935.

Paul C. Blazer, Chairman
Petroleum Code Survey Committee on Small Enterprise,
c/o Ashland Refining Company,
Ashland, Kentucky

Would appreciate informal views your committee as to whether gasoline prices have advanced to an approximate parity with crude prices so as to obviate present necessity for reduction in crude oil price as recommended in refining conclusions and recommendations contained in report your committee.

(Signed) Charles Fahy
Charles Fahy

5743 **DEFENSE EXHIBIT NO. 922.**

For Identification.

(Certified by the Department of the Interior to be copy of telegram dated April 23, 1935, from Paul G. Blazer to Charles Fahy.)

5744 **APR 23**

ASHLAND KY

CHARLES FAHY, CHAIRMAN
PETROLEUM ADMINISTRATIVE BOARD DEPARTMENT OF THE INTERIOR WASH D C—

RETEL GLAD TO ADVISE INFORMAL OPINION OUR COMMITTEE THERE IS NOW NO NEED FOR REDUCTION CRUDE OIL PRICES SINCE WE CONSIDER TANKCAR GASOLINE PRICES NOW ALMOST UP TO PARITY WITH SUFFICIENT ADDITIONAL ADVANCES ANTICIPATED IN BOTH TANKCAR AND RETAIL PRICES—

PAUL G. BLAZER

5745 **DEFENSE EXHIBIT NO. 923.**

(Certified by the Department of the Interior to be copy of Press Release dated May 7, 1935, issued by the Department of Interior.)

Petroleum Administrative Board
Memorandum for the Press

For Release Tuesday, May 7, 1935.

When the Petroleum Code Survey Committee on Small Enterprise submitted its report to Petroleum Administrator Harold L. Ickes, it included among its recommendations the statement that if wholesale gasoline prices did not advance to an approximate parity with crude prices within about thirty days, an immediate reduction should be made in the price of crude oil to a parity with refined products.

Approximately thirty days after the submission of the Committee's report, the Petroleum Administrative Board requested an informal opinion from the Committee, asking its views as to whether gasoline prices had advanced to an approximate parity with crude prices, so as to obviate any present necessity for the reduction in crude oil prices as recommended in the refining conclusions and recommendations contained in the report.

Mr. Paul Blazer, Chairman of the Committee, replied that he was glad to advise that the informal opinion of his Committee was that there now is no need for a reduction in crude oil prices, but emphasized that the Committee, in reaching its informal conclusion, anticipated that small additional advances will be made in both tank car and retail prices of gasoline. The majority of the Committee, he stated, is of the opinion that at least another quarter cent advance in tank car prices is essential, and that if such an advance should not occur within the near future, a decline of approximately 5 cents per barrel should be made in crude oil prices.

The Committee also is of the opinion, Mr. Blazer stated, that the final answer to the question as to the maintenance of a parity between gasoline and crude oil prices, after it has been reached, will be determined by the effectiveness of efforts to balance crude oil supply and demand.

Mr. Blazer also expresses the Committee's belief that fundamental conditions in the industry have been sufficiently improved to bring about and maintain prices for finished products which will justify $1.00 crude oil.

P.A.B.

5746 **DEFENSE EXHIBIT NO. 924.**

For Identification.

(Certified by the Department of the Interior to be copy of Press Release dated March 28, 1935, issued by the Department of the Interior.)

5747 Department of the Interior
Petroleum Administrative Board

Memorandum for the Press

Release in Morning Papers
Thursday, March 28, 1935

An "assured and effective balance of crude oil supply and demand" is required to insure the "stability of the Industry and conservation of the oil resources of the nation," the Petroleum Code Survey Committee on Small Enterprise reported to Oil Administrator Harold L. Ickes today.

The report released by the Administrator in full was a 43 page document comprising an independent survey of the effects of the Petroleum Code on small enterprises in the industry. The Committee comprised of various interests in the industry, in the foreword of its report stated:

"This Committee has become convinced that no permanent benefits of material value to either small or large enterprises of the petroleum industry can be obtained under the Code without a permanent, assured and effective balance of crude oil supply and demand, nor can stability of the Industry and conservation of the oil resources of the nation be achieved without such balance."

The reporting Committee was appointed by Administrator Ickes on January 11 and told to find the facts with the following instructions from the Administrator:

"Throughout my administration of the Oil Code and the regulations issued under Section 9(c) of the National Industrial Recovery Act, every effort has been made to protect the small, independent operators in all branches
5748 of the oil industry, in accordance with the policy of the National Industrial Recovery Act.

"There have been several complaints of late from some of the smaller operators and companies that they are being handicapped to some extent in some of their operations by the effects of the Code. It appeared to me that these com-

plaints warranted a searching and careful, but speedy, inquiry by an unbiased committee composed of competent authorities not connected with the Oil Administration.

Neither the Oil Administrator nor the Oil Administration wants a 'whitewashing'. We want the facts. If the facts as collected show that independent and small enterprises are being handicapped, and where they are being hampered, I want to know the facts and what the Committee thinks may be done."

The Committee consisted of the following:

Paul Blazer, President, Ashland Refining Company, Ashland, Kentucky, Chairman, non-integrated refiner and an independent.

Mason Houghland, President, Spur Distributing Company, Nashville, Tennessee, an independent marketer.

Sidney Swensrud, an economist, and an expert with the Standard Oil Company of Ohio.

H. B. Fell, of Ardmore, Oklahoma, executive vice president of the Independent Petroleum Association of America. He has a thorough knowledge of the industry's problems in the Mid-continent area, as well as conditions in other sections, particularly the problems of the independent producer.

5749 R. E. Allen, Secretary of the Committee of California Oil Producers, Los Angeles, formerly a member of the voluntary committee on petroleum economics, Federal Oil Conservation Board, and known for his intimate knowledge of conditions affecting the oil industry on the Pacific Coast.

The Administrator expressed to the members of the Committee his appreciation of the thorough services rendered by it in a difficult task, and stated that the findings and recommendations made would have his careful consideration.

The Administrator also expressed a desire that the Committee would in the meantime not disband but would continue in existence to advise regarding the progress made in remedying the conditions pointed out by it as detrimental to small enterprises.

A full text of the report follows:

Report
of
Petroleum Code Survey Committee
on
Small Enterprise

Resume of Findings and Recommendations

This Committee has become convinced that no permanent benefits of material value to either small or large enterprises of the petroleum industry can be obtained under the Code without a permanent, assured and effective balance of crude oil supply and demand, nor can stability of the Industry and conservation of the oil resources of the nation be achieved without such balance.

5750 Violations of Rules 4 and 6 of Article V:

More complaints have been received regarding violations of Rules 4 and 6 of Article V than of any other rules of the Code. These rules pertain, respectively, to selling below cost and to the use by integrated companies of profits from their operations in one branch of the Industry to subsidize their losses in other branches of the Industry. We find that small enterprise has suffered severely because of wide-spread violations of these rules.

A surprisingly large number of letters have been received recommending that, to accomplish the purposes of Rules 4 and 6 of Article V, the operations of the Industry be segregated into its four separate branches, viz: Production, Pipe Line Transportation, Refining and Marketing. Many believe that if the operations of the large integrated and partially integrated companies were thus segregated into separate corporations, the requirement of separate Federal income tax returns is all that would be necessary to insure proper accounting and separation of profits between the different corporations. Others believe that complete divorcement of management and control of the separate corporations would be necessary to avoid continued violations of these rules.

To facilitate enforcement of Rules 4 and 6 of Article V, a majority of this Committee favor the enactment of legislation which would prohibit a single corporation from engaging in more than one branch of the Industry, viz: Production, Pipe Line Transportation, Refining and Market-

ing.[1] We do not recommend requiring divorcement of management and operation of the separate corporations; such divorcement, we believe, would be unnecessarily disruptive, especially expensive to small and medium size companies, and inadvisable from the standpoint of efficiency of operations of the Industry. We believe that corporate separation alone, without interfering with the control and coordination of over-all operations, would assure "arms-length" transactions between the different corporations. We believe that such separation, together with the requirement that reports be filed at stated intervals concerning the financial results of operations of companies having joint management, would exert financial and publicity pressure toward abandonment or reform of the notoriously uneconomical and unprofitable marketing operations of many integrated companies.

As an immediate step toward determining costs for the purposes of ascertaining when sales are being made below cost in violation of Rule 4 of Article V, and to assist in determining to what extent, in violation of Rule 6 of Article V, operations in one branch of the industry are being subsidized by revenues from some other branch, we recommend
that all integrated and partially integrated companies
5751 of substantial size be required to submit to the Oil
Administrator profit and loss statements covering their operations, separated into each of the four branches of the Industry, together with sufficient data to evidence whether transactions between operations in different branches are on an "arms-length" basis with the proper distribution of overhead charges. We believe that such data can be obtained under Section 6 of Article VII, which provides for the collection of statistical and other reports which may be needed for the purposes of the Code.

Production:

We find that independent and small units in the production branch of the Industry have, on the whole, been greatly benefited by the Code. The complaints that have been received pertain chiefly to the wage and hour provisions affecting employees in sub-marginal properties.

To relieve small operators of stripper wells, so defined to include only sub-marginal properties, we recommend that operations on such properties be relieved from labor provisions of the Code pertaining both to minimum wages and maximum hours.

[1] See footnote page 3538.

We find that the inability to attain an effective and assured control over crude oil supply has been the most important factor contributing to the weakness of refined product prices, which in turn has endangered, and continues to endanger, the maintenance of present crude oil prices.

We believe, therefore, that it is of the greatest importance to small enterprises, not only in production but in other branches of the Industry, that such control be achieved as will not only be effective in fact, but which will insure confidence by leaving the least possible doubt as to its continuing effectiveness. We favor such legislation as may be necessary to accomplish this important purpose.

To meet the complaints of drilling contractors that their employees are unable to average a full 36 hours work per week without working more than 48 hours in some weeks, we recommend that the maximum number of hours that an employee may work during the drilling of any single well be increased to 56 hours per week.

We find that rig building contractors have suffered severely because Code wage provisions pertaining to their operations are more strict than are the provisions applying to similar work when done by the oil companies. We recommend that rig building operations be defined, that all labor engaged in such work be properly classified, and for the different classifications there be established minimum wages bearing a proper relationship to wages now prevailing in the Oil Industry.

5752 Refining:

We find that small, non-integrated refiners have been severely injured by the Code and are now in an intolerable position because prices of crude oil and refined products are not on a parity.

There are two ways by which such refiners can be relieved, namely: first, by an increase in the prices of refined products to a parity with posted crude oil prices, or second, by a reduction in crude oil prices to a parity with prices of refined products. The first alternative would relieve the refiners without injuring the producers and thus is preferable.

We are informed that a program for relief of refiners is being considered, the purpose of which is to stabilize both tank-car and retail gasoline prices at levels which will place them in proper relation with prevailing crude oil prices, and that this program includes a concerted informal buying

of tank-car gasoline from small refiners by the larger companies. We attach much importance to this program and recommend that the Oil Administrator give it his support.

If, however, the stabilization of gasoline prices is not quickly accomplished by the proposed program, and reasonably well maintained thereafter, we further recommend that crude oil prices then be reduced sufficiently to correspond with refined products prices. As of this date, a drop of approximately 20¢ a barrel would be necessary to make crude oil and gasoline prices conform with the ratio of 18.5 to 1 as set forth in Section 6 of Article III of the Code. Assuming that, on this basis, it may be necessary to reduce crude oil prices to save the independent refiners, we believe that both crude oil and refined prices will advance again as soon as there is better assurance of permanent control of crude oil supply.

To obtain a better balance of gasoline supply in relation to consumptive demand as between the smaller companies on one hand and the larger companies on the other, we recommend that authority be given to refiners to enter into compacts with each other, subject to the approval of the Administrator, to restrict voluntarily their respective gasoline productions below the allocations as given them under Sections 3 and 4 of Article IV of the Code, and to transfer to smaller companies all or any part of that portion of their allowable production thus curtailed.

Marketing:

In marketing operations, we find that small jobbers have suffered because of increased labor costs with little or no corresponding increase in margins. We find they have benefited especially from Rule 8 of Article V, which prohibits the loaning of equipment.

5753 We find that gasoline service station dealers have suffered from increased labor costs, and in some instances from reductions in margins due to elimination of secret rebates from their suppliers. We find, also, that in many cases they have suffered a loss in volume of business due to competition of tank truck sales. We find that because of wide-spread violations of Rule 3 of Article V, prohibiting discounts at service stations, dealers have not benefited from this rule as much as had been anticipated.

We find that the entire marketing branch of the Industry has suffered by price wars of unprecedented intensity and duration which may have been intensified by fear of regimentation under the Code.

To protect individual service station operators from destructive competition resulting from tank truck sales of gasoline to consumer accounts at large discounts off of normal tank-truck prices, and to enable the small independent jobbers to compete on an equal basis for the local business of National and other large accounts, we recommend a new and smaller discount schedule covering such deliveries, the discounts applicable to be determined by total purchases of individual consumers in any one month from all suppliers instead of the prevailing custom whereby discounts are based upon the individual sales of each supplier.

To reduce the frequency and minimize the extent of retail price wars which work a tremendous hardship on small jobbers and dealers operating in the affected areas, we recommend that those large companies that are generally recognized as the dominant marketers in their respective areas, file with the proper stabilization committee the formula by which they determine their normal price levels in the different areas, together with a statement of the reasons for any deviations therefrom which they may make from time to time. Also, we recommend that similar information be filed by their competitors. Those smaller companies that merely follow the market of leaders in the Industry, should so state that to be their policy; similarly, those independent or small marketers, that do not follow the leadership of the larger companies should state their manner of determining their price levels.

To discourage the further building of gasoline service stations, we recommend that authority be given to marketers of petroleum products to enter into compacts with each other, subject to the approval of the Administrator, whereby the building of new service stations, by the parties thereto, or the substantial rebuilding of existing stations, would be either discontinued or restricted in certain agreed upon areas.

5754. General:

In order that the smaller companies may have the same advance information concerning impending changes in Code interpretations, rules, policies, etc., that is now enjoyed by the larger companies that have representation on the principal committees dealing with such matters, we recommend that meetings of the Planning and Coordination Committee and the principal Committees under them be open to the trade press.

We believe the present Code Organization with its great number of local, state, regional and National Committees,

and sub-committees, is unnecessarily cumbersome and expensive to the Industry. We recommend that the general set-up be simplified and more adequate representation in each branch of the Industry be given to small and non-integrated enterprises.

We find that small enterprises have suffered from failure to enforce certain provisions of the Code which apparently are unenforceable either because of doubtful legality or because of the nature of the provisions. We recommend that when the Code is re-drafted, such provisions either be dropped entirely or be segregated into a separate section, adherence to which would be by mutual voluntary agreement.

* * * * * *

I

Rules 4 and 6 of Article V

We have received so many complaints over the failure of Rules 4 and 6 of Article V, which pertain to selling below cost and the subsidizing by integrated companies of unprofitable operations in one branch of the Industry by revenues from another, that we deem it desirable to give special consideration to these complaints.

These rules appear to have constituted the principal attempts in the Code to safeguard the position of non-integrated units engaged in only one or two branches of the Industry and to protect them from subsidized, destructive competition.

We find that wide-spread violation of these rules undoubtedly has prevailed and that little attempt appears to have been made either to enforce the rules or, if they are not enforceable, to revise them so as to make them enforceable. As a result we find a widespread demand, especially by non-integrated refiners and marketers, for separation or divorcement of one kind or another.

5755 Most of the complaints allege the use of profits from low cost flush production or pipe line profits to subsidize unprofitable refining and marketing operations. It is pointed out that under the Code theory of conservation, one of the chief objectives of production control is the achievement of a high enough average crude oil price to keep in operation the majority of stripper wells. This, it is maintained, automatically creates additional revenue in the production end of the industry. (The average cost of crude oil production in 1933, as determined by the Petroleum Administrative Board in a recent study, was 71.7¢

a barrel, including 10.8¢ a barrel for interest on the investment.)

Many of the independent refiners and marketers see in this situation a constant threat to their operations so long as it is possible for some integrated companies to use their crude oil profits to cover losses in refining and marketing. They contend, therefore, that production profits thus created should not be allowed to trespass, so to speak, into other branches of the industry, but should be separated therefrom in some effective way such as by divorcement of production from the other branches.

Some of those who have written us appear to believe that simply divorcing production from the rest of the industry would be sufficient; others maintain that production and pipe line operations should be divorced from each other and also from refining and marketing. Some believe that refining and marketing should be permitted to remain together. A great many have recommended that all branches of the industry should be separated from each other; i. e., production, pipe line transportation, refining and marketing.

There appear also to be many views as to the kind of separation that should be made. Some suggest only corporate separation with joint management permitted. Others insist that complete divorcement of operations and management is essential. Still others feel that separate accounting by branches and publication of the results for each branch would be sufficient. There are also some who, although recognizing that the purpose of Rules 4 and 6 of Article V have not been accomplished, doubt the desirability or efficacy of any form of separation. Some point out that monopoly might be fostered by horizontal expansion within the different branches of the industry if they were divorced from each other.

To facilitate enforcement of Rules 4 and 6 of Article V, a majority of this Committee, after considering all of the various points of view that have been expressed, favor the enactment of legislation which would prohibit a single corporation from engaging in more than one branch of the Industry, viz.: production, pipe line transportation, 5756 refining and marketing. [1] We do not recommend re-

[1] Mr. Swensrud felt that the questions involved were too complex to warrant the Committee's making any final recommendations on the basis of the limited study which it was possible to give to the matter. Mr. Allen is of the further opinion that even though segregation should be found to be in the public interest it would be impossible to accomplish such segregation in time to save the refiners now facing immediate extinction.

quiring divorcement of management and operation of the separate corporations; such divorcement, we believe, would be unnecessarily disruptive, especially expensive to small and medium size companies, and inadvisable from the standpoint of efficiency of operations of the Industry. We believe that corporate separation alone, without interfering with the control and coordination of over-all operations, would assure "arms-length" transactions between the different corporations. We believe that such separation, together with the requirement that reports be filed at stated intervals concerning the financial results of operations of companies having joint management, would exert financial and publicity pressure toward abandonment or reform of the notoriously uneconomical and unprofitable marketing operations of many integrated companies.

As an immediate step toward determining costs for the purposes of ascertaining when sales are being made below cost in violation of Rule 4 of Article V, and to assist in determining to what extent, in violation of Rule 6, of Article V, operations in one branch of the Industry are being subsidized by revenues from some other branch, we recommend that all integrated and partially integrated companies of substantial size be required to submit to the Oil Administrator profit and loss statements covering their operations, separated into each of the four branches of the Industry, together with sufficient data to evidence whether transactions between operations in different branches are on an "arms-length" basis with the proper distribution of overhead charges. We believe that such data can be obtained under Section 6 of Article VII, which provides for the collection of statistical and other reports which may be needed for the purposes of the Code.

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II

Production

Nature of Complaints:

1. It is pointed out that there has not been a definitely assured continuous balance of supply with demand for crude petroleum. It is contended that such a balance must be in effect and that the selling of low cost crude oil by integrated companies in the form of refined products at less than the posted market price for crude oil must be prevented if a high enough average crude oil price is to be maintained to keep stripper wells in operation and conserve

their petroleum reserves. It is claimed that uncertainty of control over supply has been most detrimental and that domestic production allocations, set by the Federal Agency, have been too large. It is generally agreed that more effective means are required to secure individual compliance with allocations.

It is also contended that failure to restrict imports to amounts allowed has resulted in these excess imports supplying markets which would otherwise have been available to domestic producers. It is pointed out that as a result of "hot" oil and other over-supplies pressing on the market, combined with the uncertainty of effective control of supplies, and the selling of crude oil below the posted market price, in the form of gasoline and other refined products, by integrated companies in their mad scramble for gallonage, that the prices of refined products have been depressed constantly to levels below those necessary to the support of existing posted crude oil prices, thus endangering the maintenance of the crude oil prices which are essential if proper conservation is to be achieved.

2. That the application of minimum wage rates to pumpers, and of maximum hours and minimum wage rate provisions to other employees on stripper wells (sub-marginal properties) puts an undue burden on these operations which is unnecessary from the standpoint of labor and makes necessary a higher price for crude oil than would otherwise be required to avoid premature abandonment of marginal
5758 wells, thousands of which are operating at a loss, even at present crude oil prices and without adherence to Code labor provisions. It is pointed out that there is widespread violation and disregard of the labor provisions. It is maintained, therefore, that stripper well employees should be exempt from the minimum wage and maximum hour provisions of the Code.

Analysis of Complaints and Conclusions:

1. Hot oil, excess imports, excess production of crude oil and gasoline have prevented a definite assured continuous balance of supply with demand and have resulted in supply exceeding demand from time to time. The failure to have effective control and the continued possibility of a breakdown in the control of the supplies makes impossible the assurance of a balance of supply with demand. These conditions create an increased willingness on the part of some fully integrated companies to sell their low cost flush production in the form of refined products at

prices which net them less than the market price for crude oil, but which enable them to make a profit on their entire operations.

Because of the wide variation in costs of producing oil, ranging from less than 50¢ per barrel in some flush fields to considerably more than $1.50 per barrel for oil of equal quality in older fields, it is apparent that refined products from low cost crude oil can be sold profitably at prices which constitute destructive competition to products refined from crude oil produced from stripper wells. A continuation of these practices will make it impossible to maintain a high enough average crude oil price to keep stripper wells in operation and conserve their petroleum reserves.

The average price required to insure conservation of the petroleum reserves of wells of settled production is illustrated by figures on cost of production contained in the "Preliminary Report on a Survey of Crude Petroleum" prepared by the Petroleum Administrative Board which throw considerable light on the economic difficulties confronting marginal well operations and the conservation of their reserves. The report was based on figures secured only from individuals and companies producing more than 5,000 barrels per annum (approximately 14 barrels per day) in all states east of the Mississippi River, Wyoming, Colorado and Montana, and 10,000 barrels per annum in all other states. The questionnaires received and used 5759 represented 75.72 percent of the total production for 1933. It is safe to assume that the figures used therefore include a large percentage of the low cost flush production, and we know that figures of many small stripper well operators with high cost production were not included so that undoubtedly if all figures had been secured the average cost of production shown would have been much higher. The effect of flush production in reducing average costs of production is shown by the fact that if figures on Kettleman Hills, Oklahoma City and East Texas are eliminated it has the effect of increasing the average cost of production, for 1931-1933 inclusive, seven cents per barrel. The average cost of production for 1931-1933 was twenty-six cents per barrel less than for 1927-1930. Two factors contributing to this were (1) increased amount of flush production and (2) low crude oil prices which resulted in lower wages and smaller expenditures for maintaining properties in proper operating condition.

As an illustration of the relatively high cost with which a large proportion of stripper wells are faced, we may cite the results of an analysis made by Ray M. Collins, Enforce-

ment Agent of the Oklahoma Production Committee, based on Oklahoma Corporation Commission's figures, on the Petroleum Administrative Board's cost survey and on special questionnaires to producers.

This survey shows that out of a total of 58,000 wells in Oklahoma, only 4,000 were wells of flush production. Of the remaining 54,000 wells, 30,000, accounting for about 8 percent of the state's total production had costs, exclusive of interest on investment but including depletion, of $1.13 a barrel. At the average selling price from 1931 through 1933 of 73¢ a barrel, these wells, therefore, show an average loss of more than 40¢ a barrel, and even at present crude oil prices the great majority of them are still being operated at a loss.

Another 24,000 wells, averaging 5.35 barrels daily, and accounting for approximately 26 percent of the state's production, had costs exclusive of interest, of 91¢ a barrel. For the three year period, 1931-1933, these wells also, therefore, were operated at a serious loss and even now are obtaining only a moderate return on the investment. The figures for the three groups of wells are as follows:

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		Production (Barrels)			Cost (Per Barrel)		Prices	
Group	Number of Wells	Avg. Per Well	Total	% of State	Excl. of Interest	Incl. .09 per bbl. Interest	1931-1933	Since Code
I	30,000	1.33	40,000	8.2	$1.13	$1.22	$.73	1.00
II	24,000	5.36	129,000	26.3	.91	1.00	"	"
III	4,000	80.25	321,000	65.5	.71	.80	"	"
State	58,000	8.45	490,000	100.00	.80	.89	$.73	1.00

Table 9 in the "Preliminary Report on a Survey of Crude Petroleum" issued by the Petroleum Administrative Board, which covers cost of production for the years 1931-1933 for the entire United States, indicates that most small wells of settled production are operating at a loss on present crude oil prices. It is apparent therefore that an average price of more than one dollar a barrel for 36 gravity Mid-Continent would be required to conserve the large petroleum reserves that underlie thousands of these wells.

The following table shows the reduction in stocks of crude petroleum and refined products for each year from 1930 through 1934.

Reduction in Stocks of Crude Petroleum and Refined Products in the United States.

	Crude Oil Bbls.	Refined Products Bbls.	Total Bbls.
1930	—16,563,000	— 4,676,000	— 21,239,000
1931	—40,963,000	+ 5,659,000	— 35,304,000
1932	—30,479,000	—12,038,000	— 42,517,000
1933	+15,437,000	— 4,423,000	+ 11,014,000
1934	—17,220,000	—21,830,000	— 39,050,000
Total 1929 to 1934	—89,788,000	—37,308,000	—127,096,000

Although there has been material reduction in stocks the benefits that should gradually accrue are retarded by lack of certainty of control of supply.

5761 Since the Code became effective imports have exceeded the amount permitted by the Executive Order of September 28, 1933, which was the average for the last six months of 1932, by approximately 5,700,000 barrels based on the figures of the Statistical Division of the United States Tariff Commission.

2. Regular employees on stripper wells have always been employed on a monthly basis and we do not believe that minimum rates of pay can, in practice, be applied satisfactorily to those engaged in that type of work.

We find that ordinarily the operation of stripper or submarginal wells do not involve the usual labor problems, and we believe that to the extent their wage scales are of social interest that interest is greatly overshadowed by the National interest in preserving these important reserves.

The relationship between employee and employer is unusual, often extending over two or three generations of the same family on the same properties. Because of widely varying degrees of employment, frequently carried on along with farming, neither wages nor hours can be suitably determined by the Code. If labor costs on such properties are to be increased because of Code provisions, there would follow the necessity of maintaining correspondingly higher crude oil price levels through more drastic restriction of flush fields, accompanied with increased profits to low cost crude oil producers in flush fields and increases in the prices of refined products.

Allocation of Production Quotas:

We find that the allocation of production quotas within the States as recognized by Sections 4 and 5 of Article III of the Code has not always been such as to promote the conservation of petroleum resources and to prevent physical and economic waste. We believe that such allocations should be so designed and applied as to protect petroleum resources in pools of settled production. Such a policy would tend to discourage the use of profits from low cost flush production to subsidize unfair marketing practices.

1. Recommendations:

We recommend the accomplishment of an effective 5762 and permanent balance of supply (consisting of imports, withdrawals from storage and current domestic production) with demand (consisting of exports and domestic consumptive demand) through the effective enforcement of all allocations fairly and equitably apportioned among the States and among different operators and sources of supply, in order that the supply may be limited to the total demand scientifically determined, since it is of the greatest importance to small enterprises, not only in production but in other branches of the Industry, that such control be achieved as will not only be effective in fact, but will insure confidence by leaving the least possible doubt as to its continuing effectiveness.

To relieve small operators of stripper wells, so defined to include only sub-marginal properties, we recommend that operations on such properties be relieved from labor provisions of the Code pertaining both to minimum wages and maximum hours.

Drilling Contractors:

It is claimed that the failure to grant a twenty-five per cent reduction in wages in old settled areas which the Code provides may be allowed on wells drilled to a depth of less than 1,000 feet, works unreasonable hardships. In drilling wells to depth of less than 1,000 feet in old fields, none of the difficult problems found in flush fields are involved, and therefore the high degree of skill required of labor in drilling in deeper areas or in flush fields is not required.

We recommend that the reduction of twenty-five per cent. in wages on this type of drilling, as authorized by the Code, be granted.

It is claimed that the Code provision limiting to a maxi-

mum of 48 hours work in any one week, results in much violation in the Mid-Continent area and that the best drillers leave the employ of those conforming to the Code to go with contractors who will permit them to work more than 48 hours in violation of the Code. It is claimed also that the 48 hour limitation results in the average employee securing only approximately thirty hours work per week over an average of twenty-six weeks, instead of thirty-six hours, and also, that it causes a shortage of good drillers.

5763 We believe, and recommend accordingly, that most of the existing difficulties would be eliminated by permitting a 56 hour week throughout the drilling of a single well and that upon the completion of the well, employees should immediately average back to 42 hours per week before starting work on another well, leaving without change other restrictions as to hours of labor.

Big Building Contractors:

Big Building Contractors, who are generally small enterprises, complain that they have been unjustly discriminated against under the Code in that rig building operations have not been defined and the rates of pay for skilled labor were made too high. They claim this has resulted in producers and construction companies doing part of this work with labor employed at lower rates, thus resulting in a great loss in their business. They maintain that everyone carrying out rig building operations should be placed on the same competitive basis.

We find that rig building contractors have suffered severely because Code wage provisions pertaining to their operations are more strict than are the provisions applying to similar work when done by the oil companies. We recommend that rig building operations be defined, that all labor engaged in such work be properly classified, and for the different classifications there be established minimum wages bearing a proper relationship to wages now prevailing in the Oil Industry.

5764 III

Nature of Complaints:

The independent refiners complain that they have been doubly injured under the Code. In the first place, they state, refinery operation costs have been increased so that

to come out even they would have had to get an increased spread between the cost of crude oil delivered at their refinery and the value of the refined products which they sell, but instead of this spread being increased, they complain that the exact opposite has been the case; they maintain that the price of crude oil has been kept artificially at a level far out of line with the wholesale market value of the refined products.

They maintain, moreover, that often it has been impossible even to realize the published spot prices for their gasoline, due to the depressing effect of retail price wars upon the net realization back at the refinery. Refiners point out that they must give some protection to their distributors to compete with the major companies, and to keep their customers in business.

Analysis of Complaints:

Increase in Refinery Operating Costs.

There is no doubt that, under the Code, refinery operating costs have been increased, consisting, as they do, so largely of labor, fuel, and metal. So far as labor is concerned, the increase varies widely, depending mainly on the number of hours per week worked before the Code. Based on the Committee's study of individual cases, on the opinion of Dr. Stocking of the Petroleum Labor Policy Board, and on studies made by the Labor Sub-Committee of the Planning and Coordination Committee, we believe that it is safe to say that labor costs in refining generally have been increased under the Code by an average of 25 to 30%;
5765 and undoubtedly the percentage increase has been greatest among the small refiners where longer hours prior to the Code were more prevalent.

Fuel costs vary chiefly with the prices of coal and fuel oil. For 1934 these prices range from 25 to 50% greater than in the year or two prior to the Code. Costs of fabricated steel products and installation, we find, have averaged from 25 to 30% higher than for the precode period. Practically all other items of refinery operating expenses such as chemicals, supplies, etc., have shown substantial increases.

Taking refinery operating costs as a whole, we believe they have been increased under the Code by an average of about 6¢ per barrel of crude oil run.

Refinery Losses

We believe that practically every refinery east of the Rockies is operating at a loss. A considerable number of reports were received from companies engaged only in refining, and various figures were obtained covering the refinery operations of companies engaged in other lines of the Industry as well. These reports showed substantial refinery losses since the advent of the Code.

A typical example is that of a small refiner in the Mid-Continent who in 1932 was able to make, exclusive of tank-car earnings, a net refinery profit of $2,781, who in 1933 had a refinery loss of $6,795, but who, in the first 11 months of 1934, had suffered a net refinery loss of $56,450. In this particular case the refinery operating expenses were low, and careful and prudent operation in general appeared to have existed throughout. The additional loss in 1934 quite clearly was attributable to the change in relationship between the price of crude oil and the realized prices obtained on the refined products.

Another independent refiner who in 1931 made a net profit of $45,911 and a profit of $28,036 in 1932, sustained a loss in 1933 of $15,304, practically all of which was accounted for after the Code was adopted. In 1934 the net loss for the year was $74,388! This refinery is well located both with relation to crude oil and markets. There has been no change in the management and the only change in the refinery operations was the installation of certain
5766 equipment in 1933 and 1934 which the refiner states improved the efficiency and prevented even greater losses in 1934.

An intermediate sized company which keeps careful segregated departmental figures showed that whereas its refinery operations in 1933 showed a profit, this was reduced to a loss in 1934, the net impairment in 1934 as compared with 1933 being 21 cents per barrel of crude run; and this was after making an actual reduction in its refinery operating costs in 1934 due to various mechanical changes and improvements.

A group of ten western Pennsylvania refiners, representing a cross section as to size, type and location of such refineries showed that for the last half of 1934 their realization from production of refined products failed by $952,069 to cover their crude oil and refining costs. This was a net loss equivalent to 32 cents per barrel of crude oil run.

It should be noted that in each of the foregoing cases interest on the investment has not been included by the companies as an operating cost.

Upon the basis of our studies we believe that regardless of size or method of operation, almost every refinery east of the Rockies, running upon legal crude and paying or being charged with the full posted price for same plus transportation charges, showed a serious loss in 1934.

Changes in Cost-Price Relationships Since the Code:

Judged by whatever standard of measurement may be chosen, it is evident that the prices of crude oil and of refined products have not been on a parity, and this fact, together with generally increased refinery operating costs under the Code, has put the non-integrated refiner in an impossible position.

The changes since the Code in the relationships between the price of crude oil, the value of its products, and the refinery processing costs can be considered from several angles. One is simply to contrast the increases in cost with the increases in revenue. The price of crude oil reached $1.00 a barrel on September 29, 1933; hence for practical purposes and for simplicity we may say that the Code period so far as the relationships in question are concerned began on October 1, 1933. A comparison of 16 months under the Code with the 16 months prior to the Code should afford a fair measure of the changes that took place under the Code.

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The average well price of 36 gravity Mid-Continent crude in the 16 months period prior to the Code—that is, from June 1932 through September 1933, was 67.5¢ a barrel. As compared with $1.00 a barrel, therefore, there was an increase in this item of 32.5¢. Adding this to the estimated increase in refinery operating expense, of 6¢ a barrel, gives a total increase in cost items of 38.5¢ a barrel.

As against this we may take the increase in value, based on wholesale prices of the typical products obtained from the refining of Mid-Continent crude, as indicated, for example, by the Bureau of Mines yield figures for refineries in Oklahoma, Kansas and Missouri. On this basis the refined products from one 42 gallon barrel of crude show an aggregate increase in the 16 months since the Code of 27¢ a barrel as compared with the 16 months prior to the Code. This is shown by the following figures:

Yield Per Barrel		Increase in Value Under Code	
Product	Gallons	¢ Per Gallon	Total Per Barrel of Crude
Gasoline	21.8	0.71¢	15.5¢
Kerosene	3.0	0.38	1.1
Furnace Oil	3.0	0.35	1.1
Fuel Oil	8.7	0.60	5.2
Still Gas	2.0	0.60	1.2
Lubricating Oil	1.2	2.00	2.4
Miscel. Products	1.0	0.50	0.5
Loss	1.3	—	—
Total—	42.0		27.0¢

As against an increase of 38½¢ a barrel in the cost items, there has therefore, been an increase of only 27 cents a barrel in the value of the refined products, leaving the refiner with a net impairment in his position since the Code of 11½¢ a barrel.

It does not follow that this is the full amount of the loss per barrel sustained in the refining branch in the last
5768 16 months because it is probable that on the whole the refining branch was already suffering some loss in the earlier period as well. Moreover, the degradation of average realized prices below the quoted spot prices, due to the need of protecting jobbers in retail price wars, undoubtedly was much greater in 1934, thus increasing still further the impairment since the Code.

A second approach is to compare the wholesale prices of gasoline that have existed since the Code with prices that were anticipated. In the original price fixing schedule which was recommended by the Planning and Coordination Committee, and which was intended to include a reasonable refining profit, a price of 6.5¢ a gallon for 60-64 octane grade gasoline in the Mid-Continent was prescribed, along with $1.11 a barrel for 36 gravity Mid-Continent crude at the well. The difference of 11¢ a barrel in the crude oil price would be equivalent to about 0.5¢ per gallon in gasoline cost, so that with $1.00 crude, the wholesale gasoline price prescribed presumably would have been about 6.0¢ a gallon. In contrast to this, the actual price of this grade of gasoline in the 16 months since October 1933, has averaged 4.67¢ a gallon. This deficiency of 1.33¢ a gallon of gasoline would be equivalent to around 30¢ a barrel of crude oil (assuming a gasoline yield of about 22 gallons per barrel of crude).

This figure of 30¢ a barrel is some indication of the amount which the refining branch of the Industry has foregone as against what was considered in the fall of 1933 to be a reasonable operating basis.

A similar method of approach to this same question of what the refiner has gotten as compared to the objectives under the Petroleum Code, is to examine the relationship between crude oil and gasoline prices that has existed, as compared with the ratio of one to 18.5 between the average tank-car price per gallon of 60-64 octane gasoline f. o. b. Group 3 and the well price per barrel of 36 gravity Mid-Continent crude oil. This was the ratio worked out by the Administration and set forth in Rule 6, Article III of the Code as a fair basis for the price of crude oil relative to that of gasoline.

As a matter of fact, we have been unable to check with the figures on which this suggested ratio presumably 5769 was based because the average price of 36 gravity crude oil in the Mid-Continent during the years 1928 through 1932 was only about 17.8 times the "average" price, as quoted in the Oil Price Hand Book, of the grades of gasoline specified in Section 6. The 18.5 ratio would be substantially correct, however, if the "low", rather than the average of the high and low gasoline price quotations were used.

Let us see how the crude oil price actually in effect since the Code has compared with what it would have been on the basis of 18.5 times the low quotations for 60-64 octane gasoline up to August 1934 (when quotations for this grade were discontinued) and of 63-70 octane gasoline thereafter. The figures are as follows:

		Oklahoma Gasoline Price f. o. b. Group 3	At 18.5 Gasoline Price, Crude price would have been
October,	1933	5.13¢ per gal.	$ .95 per bbl.
November,	"	5.00 " "	.92 " "
December,	"	4.95 " "	.92 " "
January,	1934	4.78 " "	.89 " "
February,	"	4.74 " "	.88 " "
March,	"	4.36 " "	.81 " "
April,	"	4.53 " "	.84 " "
May,	"	4.75 " "	.88 " "
June,	"	4.64 " "	.86 " "
July,	"	4.52 " "	.84 " "
August,	"	4.71 " "	.87 " "
September,	"	4.63 " "	.86 " "
October,	"	4.23 " "	.78 " "
November,	"	4.67 " "	.86 " "
December,	"	4.55 " "	.84 " "
January,	1935	4.53 " "	.84 " "
February,	"	4.39 " "	.81 " "

A study which throws considerable light on the amount by which the revenue from products has failed to cover crude oil prices and refining costs was that made early in 1934 by the Accounting Sub-Committee of the Planning and Coordination Committee. At that time, in connection with a study of crude oil production costs, the Sub-Committee made a study of the costs of making the various grades of gasoline during the month of October 1933. By that
5770 month the crude oil price had reached its present $1.00 level, although much of the increase in refinery operating costs which took place under the Code had not yet appeared at that time; especially in view of the retroactive wage increases made later. Based upon the actual figures for October, however, it was found that for the 17 Oklahoma refineries which reported, the average cost, exclusive of interest on the investment, of 60-64.9 octane gasoline was 5.3¢ a gallon. If interest on the investment had been included it would, we estimate, have added approximately three-tenths of a cent to the gasoline cost making it about 5.6¢ a gallon. The average price of 60-64 and 63-70 octane gasoline for 1934 however was only 4.59 cents a gallon in the Oklahoma market and 4.40¢ for Group 3 gasoline in the Chicago resale market. At these prices the refineries were short of breaking even by from 0.7 to 0.9¢ a gallon, equal

to 15 or 20¢ per barrel of crude oil run. At this rate the refinery loss on the total crude oil refined in the United States in 1934 would have been from $140,000,000 to $180,000,000.

As a further indication of the cost of gasoline, the Committee also discovered certain figures on gasoline costs and refinery operating expenses published by the Tariff Commission in November, 1931, along with its study of the production cost of crude oil and other products.[1]

In 1929 and 1930 with average delivered crude oil costs at Gulf Coast refineries of $1.56 and $1.50 per barrel in the two years respectively, it was found by the Tariff Commission that the average cost of non-premium gasoline, exclusive of blending stocks, at the Gulf Coast was 7.12¢ a gallon in 1929 and 7.32¢ in 1930.[2]

5771 If the average cost of crude oil delivered to the Gulf Coast refineries as it works out under today's conditions (such delivered cost being around $1.20 to $1.28 a barrel) be substituted for the 1929 and 1930 crude oil cost figures used by the Tariff Commission, the resulting gasoline cost figures would be reduced to around 6¢ per gallon. In contrast to this figure, it is found that for the year 1934 the average price f. o. b. Gulf Coast, for domestic shipment of 60-64 octane gasoline was 5.12¢ per gallon. Here again, therefore, there appears to be a marked deficiency between the value of the gasoline, as determined by market prices, and its cost, based on the posted crude oil price which has been in effect.

Fixation of Crude Price.

There appears to be a widespread belief in the Industry and especially among the non-integrated refiners, that the posted price of crude oil since the Code has, for all practical purposes, been fixed, and has not been free to react, as gasoline has done, to the changes in the supply and demand factors and the prospects that have obtained. In view of the fact that official price fixing for the Industry, as a general policy, was rejected before the date it was to have become effective, and has never since been officially

[1] U. S. Tariff Commission—Report to the House of Representatives on Crude Petroleum and its Liquid Refined Products. Report No. 30 Second Series. November 30, 1931. Pages 185-205.

[2] Gasoline costs were computed in the Report for the Atlantic Seaboard for the Gulf Coast, and for California. Refinery operating costs were given for these areas and in addition, for most of the other refining centers of the country, but product costs were not computed for inland points.

restored, the thought was expressed by many refiners in their communications that it was unfair to bring about, by whatever means involved, the practical fixation of the crude price at a level higher than appeared to be warranted by the effectiveness of the production control. The independent refiners point out that although efforts were made to improve refined products prices, such as through the various gasoline buying programs, none of these plans succeeded and many of the refiners question whether it was fair to hold the price of crude oil at the higher level pending the hoped-for improvement in the refined prices, because under that arrangement, the salvation of independent refiners was made dependent upon the outcome of these experiments. They contend that, however desirable it may have been to raise the refined produce price levels, there was no justification for holding up an artificial crude price level in the meantime.

The issue over fixed crude and free product prices appears to be considered by most independent refiners as so fundamental to their present problem that we believe it desirable to quote from some of the typical expressions of opinion on this subject.

5772 One refiner speaking of the present difficulties of independent refiners says:

"We feel that this situation is due to the fact that the price of crude * * * has been held at a high point through the influence of the Oil Administration at Washington, while the price of finished products has been set * * * by the running of 'hot' crude in East Texas * * *."

Another independent refiner complains that

"While the Petroleum Administration has insisted that the minimum price for crude oil in the field shall not be less than One Dollar per barrel * * * it has taken no effective steps to protect the small non-integrated refiner and make it possible even with the most efficient operation to realize * * * the cost of such operations * * * The efforts to control crude production have never been sufficient to prevent a surplus and consequently have not stimulated the refined market sufficiently to insure the refiner against operating losses, neither have the orders aimed at control been fully effective. As a result there has always been a sufficient amount of refined products on the larger markets to keep the wholesale price below actual cost of production."

Another refiner views it as follows:

"On September 29, 1933, the price of $1.00 per barrel was posted * * * During this period of some fifteen

months the price of crude oil has been virtually fixed, due to the insistence that crude prices must not be reduced. There is only one Section in the Petroleum Code that was intended for the protection of the independent refiner. In this Section it was specified that the constant 18.5 should be applied to the price of gasoline in order to determine the price of crude oil. This meant that when crude oil was $1.00 per barrel the price of 60-64 octane gasoline would be 5.4¢ per gallon. There has not been a time since the Code that we have received this price for the named grade of gasoline."

5773 Another refiner, complaining also of major company refineries selling tank-car gasoline in cut price areas at prices which, after deducting freight, net back nothing at the refinery, says:

"Pegging crude at a dollar a barrel with the approval, yes, insistence of the Code authorities, then permitting such acts * * * in the name of this Code of Ethics smacks mightily of a desire to entirely eliminate the independents * * *.

"So far, the Code authorities have not permitted price fixing other than to establish a minimum price for crude oil. In principle, I am opposed to price-fixing by government, but, where the government steps in and tells you what you must pay for crude, then it should go down the line and tell you what * * * to charge for the refined products * * * if a refiner who must purchase his crude can not obtain a price for the refined products equal to what he pays for the crude plus * * * expenses * * * it is only a matter of time until he is out of business—and that is the condition we are in today."

"Personally", says another refiner, "I cannot see how there will ever be any lasting stabilization * * * until something is done to control the price of crude oil so that it will be kept nearer in line with the price of refined products * * *"

After a careful consideration of the facts we feel that it is reasonable to conclude that the crude oil price since the Code has, in practical fact, been maintained at an artificially high level relative to the degree of production control achieved. We recognize that there are contrary views: some say that it is the refined prices which have been too low, that they should follow the crude price and not vice versa; and that the crude price itself has not been too high, based upon costs of settled production and the like. It is apparent however from any study of the situation that changes in the crude oil supply and demand pic-

ture have always been reflected more promptly in gasoline prices than in crude oil prices even when both were free to move naturally.

5774 Fundamentally there is only one set of supply-demand factors in the Petroleum Industry. Except in a very narrow and temporary sense there is no "supply" of refined products except the supply of crude oil and no "demand" for crude oil except the demand for its refined products. This is especially true since for a number of years past there has been more than sufficient refining capacity to quickly convert crude oil supplies into any refined products which might be "demanded".

Gasoline prices record changes in this supply-demand picture more quickly than crude prices because gasoline is always being bought and sold in an open market. Each buyer has access to a considerable selection of sellers with little delay, and vice versa; whereas in the case of crude oil, buyers and sellers are physically limited by pipe line connections and it is not feasible for either of them to be constantly changing these connections in order to obtain a minor price advantage. For this reason there is no convenient opportunity for buyers and producers of crude oil to take account of every nuance of supply and demand as in the case of gasoline.

This explains, we believe, why crude oil price changes ordinarily follow those of gasoline by a reasonable period of perhaps a few months, but it does not account for the present crude oil price remaining permanently unresponsive to the same changes in the supply outlook that have been definitely reflected in gasoline prices.

We may mention a few of these changes in the supply outlook during the Code period. Looking at the period as a whole it is apparent that the $1.00 crude oil price was established in anticipation of a degree of control over crude oil production which, for various legal and other reasons, was impossible of attainment. From September 1933 to the end of 1934, crude oil production in the United States, including hot oil as estimated by the Bureau of Mines, exceeded the allocations of the Petroleum Administrative Board by a total of 61,802,000 barrels, almost a month's production.

5775 While at all times since the Code there has therefore been over-production of crude oil as compared to the allocations, there have in addition been many intermediate changes in the outlook with respect to crude oil control. In February, 1934, for example, the Government's powers under the Code were greatly reduced by the decision of

Judge Bryant in the Panama and Amazon cases (see Exhibit I). In the week following his decision the wholesale price of gasoline in Oklahoma declined approximately ½¢ a gallon, which in terms of crude oil would be equivalent to 10 or 12¢ a barrel. In April new Federal oil legislation was proposed and late in that month the Thomas-Disney Bill was introduced, strongly backed by the Administration and a large portion of the Industry. There appeared little doubt that it would pass and that strong Federal control would thus be restored. The price of gasoline reflected these changes in prospect, and from early April through May it rose approximately ¾¢ a gallon. By the second week in June, however, it became evident that the Thomas-Disney Bill would not be enacted. Here again was another shift in the outlook, and the price of gasoline, evidently reflecting it, declined in mid-June by approximately ½¢ a gallon. As the summer progressed the hot oil flow from East Texas increased and correspondingly the gasoline price structure steadily weakened. For a time a distinction was made in the price quotations between legal and illegal gasoline and the full effect of the hot oil and gasoline from East Texas can be understood only by examining the prices at which the hot gasoline was being sold. By the middle of October, however, even legal gasoline had sunk more than 1¢ a gallon from the mid-summer level. Crude, however, still remained at $1.00 a barrel. Then late in October came the creation, under Section 9(c) of the National Industrial Recovery Act, of the Federal Tender Board which was set up to make effective the prohibition of interstate shipments of illegal crude oil and products from East Texas. The new Board was successful immediately in drastically reducing such shipments. Here was perhaps the most definite example of all of a sudden change in the supply picture, and the gasoline price, sensitive to it, suddenly reversed its downward trend and advanced sharply for about two weeks, recovering from the extreme lows of October.

Reflecting subsequent conditions gasoline prices have weakened further since last November and at the end of February the Oklahoma price of 63-70 octane gasoline in the Chicago resale market was 4.125 cents a gallon.

5776 Looking at these events and at their reflection in the wholesale gasoline market it is impossible to escape the conclusion, not only that the conditions of control anticipated when the $1.00 crude price was established have not obtained during the period of the Code, but that, in addition, there have been many intermediate variations and vicissitudes in the supply side of the crude oil picture

which were sufficient to have caused fluctuations from time to time of from 10 to 15 or 20¢ a barrel in the price of crude oil had it been free to reflect those factors.

It is this fixity and inflexibility of crude oil prices, in the face of changes and reductions in the market value of the products obtained from the crude oil, that the non-integrated refiner complains of. Many of them have a long record of proud and honorable operation and it is difficult for them to accept defeat at the hands of the present situation. One of them writes:

"As you perhaps know, our company is one of the older refining companies in the United States, having been incorporated in 1886. * * * We have, of course, gone through other depressions in the past, but in these other periods we found that the entire Industry suffered together and we were in no worse condition than other petroleum companies, and when conditions improved our situation improved also. In the present depression, however, we find that the non-integrated refining companies are suffering seriously, whereas the integrated companies, due to the conditions which exist * * * are able to get by without loss."

Another, closing on a more bitter note writes:

"For your information, this company is one of the oldest refineries in * * *. It has never resorted to the use of illegitimate or questionable tactics in conducting its business. And, up to the time the Code became effective, we were proud to be proud to be known as a prosperous asset to the community; while now, under the operation of the Code, we are setting up another tombstone commemorating the 'progress' of the New Deal."

(Then follows Chart)

5777 Conclusions and Recommendations

The refining branch of the industry has been at a disadvantage for a number of years and as a result most of the plans that were doomed by unfavorable location, exhaustion of local crude sources, or inefficiency of operation, had already been eliminated prior to the Code. Disregarding some small plants in East Texas and possibly a few recently constructed in other new fields, most of those that have survived and are now operating appear to have the advantage of favorable geographic locations or unusually capable management. We believe that in a fair race, involving refining operations alone, and all paying the same price for their crude oil, they would more than hold

their own in competition with the larger companies. No efficiency of operation however can overcome the present odds. They cannot continue to pay the present posted crude oil prices and continue to sell their gasoline in competition with certain integrated companies that have low cost flush production for which they are realizing, after conversion into gasoline, substantially less than posted crude oil prices.

It is our opinion that most of the large oil companies which post prices for crude oil in the principal fields have been well aware of the fact that crude oil has been too high in relation to the prices of refined products, but that since in most instances they themselves have not suffered seriously as a result of the abnormal situation—and in certain cases have profited greatly—they have not been inclined to cut the price of crude oil and risk the change of administrative disfavor as well as the possibility of adverse legislative penalties. The result is that the refining branch of the Industry has been obliged to absorb the difference between the prevailing posted crude oil prices and those prices which, as indicated by historical experience, should have prevailed.

Since crude oil finds its consumptive market only through refined products, we believe that generally speaking the prices of refined products are a fairly accurate barometer of the degree of success attained from time to time in balancing crude oil supply with consumptive demand, and that no artificial factors should be allowed to interfere with the normal relationship between crude oil prices and the prices of refined products. Otherwise, 5778 profits merely will have been given to one branch of the industry at the expense of another. No additional over-all prosperity will have been created, and natural corrective forces will have been interfered with.

There is a vast difference between small refiners being destroyed as a result of the natural economics of the industry and their being destroyed as the result of artificially maintained crude oil prices.

Immediate relief is necessary if non-integrated refineries are not to be eliminated; it can come in only two forms.

1. An immediate and sustained increase in tank-car and retail gasoline prices to a parity with present crude prices, or

2. A reduction in the posted prices of crude oil to a parity with gasoline.

We agree with the thought prevalent in the production branch of the Industry—that it would be more desirable

for the solution to come from an increase in gasoline prices instead of a reduction in crude, but if it cannot be done one way it should be done the other way.

We favor making one more effort at raising gasoline prices. Refiners, of course, will point out that almost continuously over the past year efforts have been directed toward that end with negligible results. But some improvement in the basic factors of the situation may have been accomplished, and possibly only the impetus of concerted buying is needed to obtain a decided change for the better. Interstate shipments of hot oil and its products apparently are being brought under control and if the oil states enforce proper allowables there should be an improvement in the supply side of the picture. We know of nothing, apart from continued improvement in crude production control, which would be so helpful to the tank-car price of gasoline at this time as the substantial buying of distress gasoline by major companies. We understand a program of this sort is being considered by the Industry now in connection with a broad stabilization program. We therefore urge that the Administrator give it his approval and active support.

5779 It should be possible to have such a program functioning quickly. Profiting by the mistake of previous efforts, and in having to overcome the counter-effects of excessive quantities of hot gasoline and widespread disastrous retail price wars such as raged when a buying program was attempted last Fall, we believe such a program might be successful in raising both tank-car and retail prices to their proper level in relationship to crude oil prices.

If higher tank-car prices are obtained, we believe they can be sustained only by corresponding increases in retail gasoline prices; otherwise, the burden merely would be shifted from small refiners to small marketers, who in many instances have been in just as much distress as the refiners. We find that abnormally low retail prices can depress tank-car prices just as much as low tank-car prices can pull down the retail price structure. Thus it appears to be essential that both prices move up together.

Unfortunately, many people outside the Industry who recognize the desirability of conserving petroleum reserves and who strongly favor the preservation of small enterprises, are likely to be the first to criticize a moderate increase in retail prices of gasoline, not realizing that in so doing they are striking directly at the non-integrated

units and throwing the entire Industry into the hands of a few large integrated companies.

If, however, gasoline prices do not advance to an approximate parity with crude prices by an early date, within thirty days or thereabouts, or if they do not continue in such parity thereafter, then we recommend an immediate reduction in the price of crude oil to a parity with refined products. On the basis of prices as of this date a reduction of about 20¢ a barrel would be required to bring crude oil and gasoline prices into parity on the basis of the ratio of 18.5 to 1 as set forth in Section 6 of Article III of the Code. In view of the fact that most of the trade papers have discontinued publishing quotations for the 60-64 octane gasoline specified in Section 6 of Article III, we suggest in this connection the desirability of resuming such quotations.

5780 Of course some members of the Committee believe that a drop in crude oil prices would simply result in a further decline in the prices of refined products unless the fundamental factors necessary to prevent such a result were made effective in the meantime. A graphic portrayal of all the market changes extending over a period of many years however, discloses that there had been an advance in tank-car gasoline prices soon after every crude oil price decline except in the case of a few series of crude oil cuts constituting major downward movements such as occurred when Seminole was opened up in 1927, East Texas in 1931, and when proration in East Texas collapsed early in 1933. (See accompanying chart, Exhibit III). We believe that if it should become necessary to reduce crude oil prices, corrective forces would assert themselves. It is apparent, for example, as may be seen in Exhibit II that the drilling of new wells and the consequent development of new crude oil supplies is retarded by any reduction in the crude oil price.

In shifting some of the burden from the refiners who buy their crude oil at posted prices to producers who sell their oil at those prices, and in taking away some of the advantage of the large integrated companies that are profiting by the difference between their production costs and posted prices, the entire industry we believe would be aroused out of its complacency over the plight of those companies that cannot hold out much longer. We recognize, of course, that this program would result in many producers now operating at a loss, having to operate at a greater loss until the basic remedies that have been recommended are made effective. Disappointing to producers

as such a step might seem, we believe, however, that from the enlightened viewpoint of all factors in the Industry, it would be preferable to the extinction of the non-integrated refiners.

Moreover, restoring freedom to the crude oil price and making it dependent solely upon the efficacy of control over the supply factors and on the confidence in the permanency of such control would, we believe, promote far healthier conditions in respect to such control and its improvement, than where the price of crude oil is artificially maintained at a level inconsistent with the realities of control and the Industry's confidence therein.

(Charts (Exhibits II and III) follow)

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IV

Marketing

Nature of Complaints:

We have received the following principal complaints from marketers:

(a) That their costs, particularly labor, have increased greatly under the Code.

(b) That margins allowed both jobbers and dealers are not large enough to permit them to pay Code wages and operate at a profit.

(c) That their volume of gasoline business is diminishing because of competition from lower price service stations.

(d) That whereas the larger companies are now reducing their margins to jobbers and dealers in certain areas, there is no compensating reduction in the total number of retail outlets, and that the same large companies continue building their own service stations, incurring marketing costs far in excess of the margins which they give to their independent distributors.

(e) That the large companies engage in uneconomic marketing practices which could not be continued if their marketing operations were not subsidized by revenues from other branches of the Industry, and that such practices constitute a clear violation of Rule 6, Article V of the Code which is intended to prohibit such diversion of income from one branch of the Industry to another.

(f) That crude oil prices were stabilized but that retail gasoline prices were left to the mercy not only of ordinary competition, but of an especially subsidized form thereof.

(g) That whereas the Code prohibits discounts at service stations, large discounts are being given to consumers that take delivery by tank truck and that particularly since the discontinuance of the CD 1 contracts, both commercial and pleasure car business is being diverted from service stations.

5782 (h) That marketers have been subjected to serious hardships due to so called retail price wars.

Analysis of Complaints:

In analyzing the complaints of independent marketers it is necessary to distinguish carefully between those difficulties that have arisen as a result of the Code and those that find their cause outside the Code. For example, except to the extent that the authority to fix prices might be invoked, complaints concerning margins allowed by supplying companies to the jobbers and dealers, and concerning price differentials between branded and unbranded gasoline, come under the Code only indirectly. The Code does not prescribe what the margins allowed jobbers and dealers should be, nor does it prescribe retail price differentials as between one type of marketing and another.

Unquestionably, there are many existing difficulties and hardships in connection with marketing operations that cannot be related directly to any rule in the Code and for which your Committee does not attempt to offer a solution.

We believe it is inevitable that many service stations must continue to operate at a loss; any margin that would permit all of them to operate profitably, would continue to attract newcomers into the business with the further dilution of gallonage, and then that margin would no longer be adequate. This applies especially to the retailing of gasoline because it is a business that requires little capital or business experience and thus is easy to get into.

While production, transportation and refining operations have been growing more efficient, retail marketing operations steadily have grown less economical, and today costs appear to be approximately twice as high as they were 20 years or more ago when the volume of demand for gasoline was only a fraction of what it is today.

We find that for a year or two prior to the adoption of the Code an effort was made in certain areas by the principal marketers of gasoline to reduce margins and marketing costs, but that after the Code became effective much ground was lost because of prospective price fixing

5783 involving protested margins large enough to take care of almost everyone, followed by the proposed marketing agreement with its margin provisions which were adopted generally by the Industry, giving increases in many territories. There followed a renewed wave of building of service stations.

We note that again there is a tendency to try to reduce margins and marketing costs of gasoline, but it involves an unpleasant and painful process with many accompanying inequalities that frequently are attributed improperly to the operation of the Code.

The trend for the past few years toward lower margins tween tank car and retail prices may be seen in the following figures and the accompanying chart. It will be noted that there was an accelerating trend after 1929 toward a narrowing of this spread, but it apparently had about leveled off by 1932, continuing at about the same level through the first half of 1933. In the last half of 1933 following the adoption of the Code and in the first half of 1934, the spread increased, representing a reversal of the trend and reflecting the attempt to raise retail prices sufficiently to cover the extra costs of marketing and the wider margins extending to re-sellers.

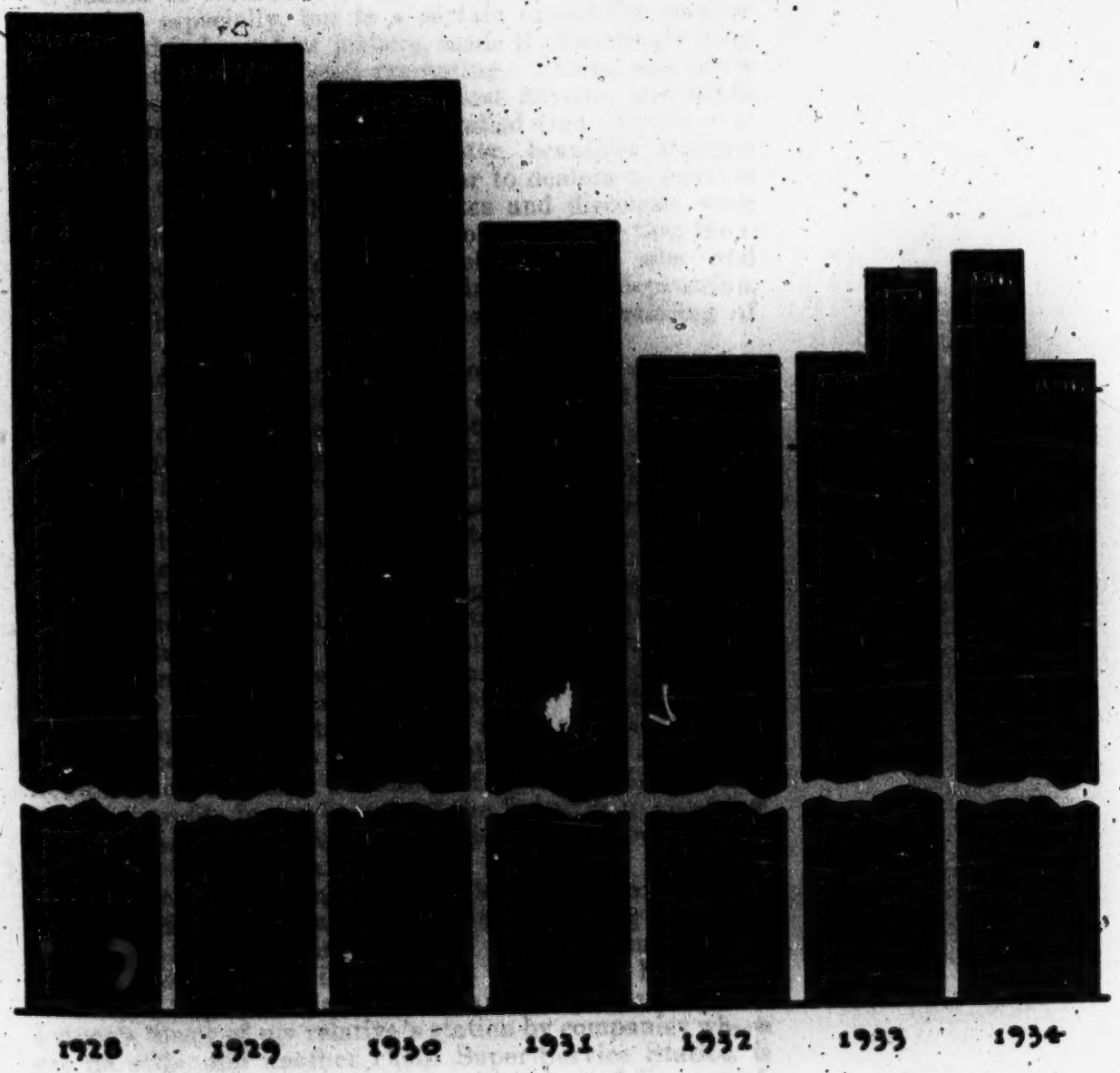
Spread Between Wholesale and Retail Prices
(Regular Grade Gasoline—Cents Per Gallon)

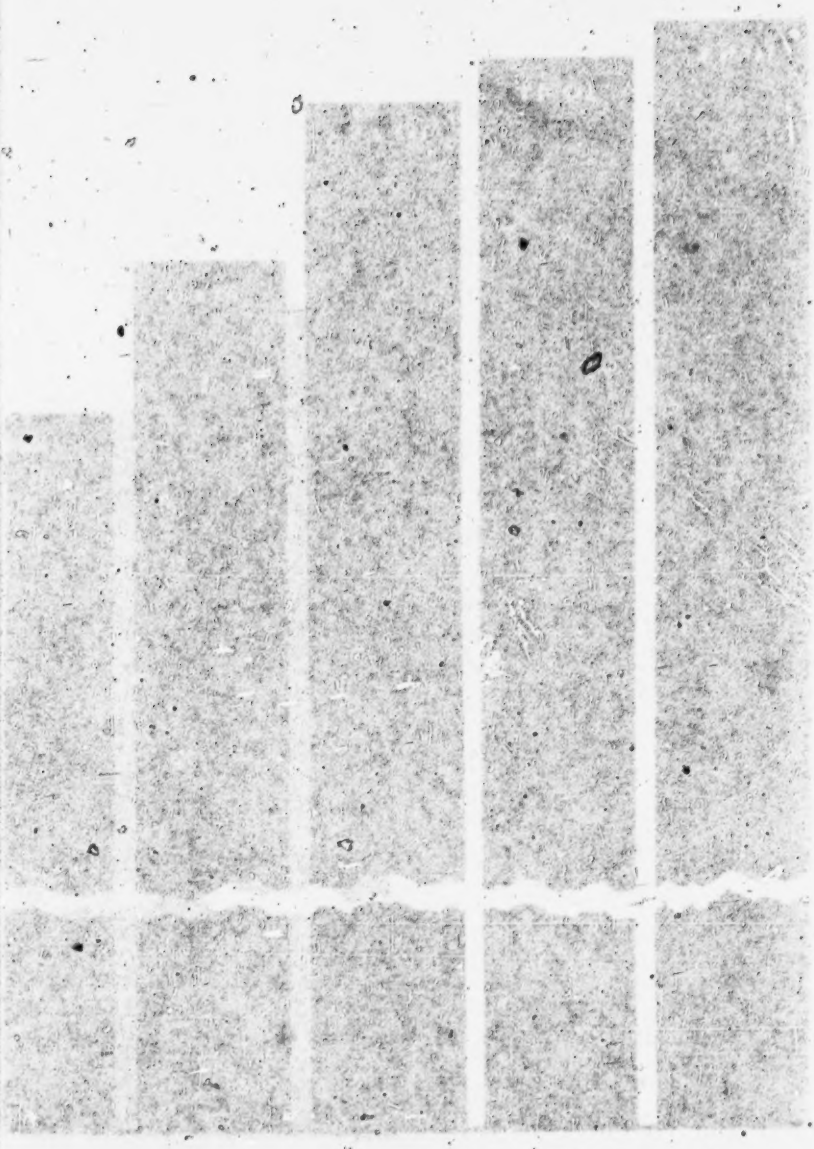
	Average Tank Car Price f. o. b. Group 3 (low Chicago Resale)	Average Retail Service Station Price in 50 U. S. Cities, ex. tax	Spread Between Tank Car and Service Station Price
1928	7.10	17.63	10.53
1929	7.50	17.91	10.41
1930	6.10	16.33	10.23
1931	3.50	13.10	9.60
1932	4.30	13.30	9.00
1933—1st half	2.60	11.61	9.01
—2nd half	4.53	13.92	9.39
1934—1st half	4.44	13.90	9.46
—2nd half	4.36	13.32	8.06

The authors of the Code evidently recognize that the marketing branch of the Industry was in a vicious circle. Many of the Rules in Article V obviously were intended to discourage further expansion of gasoline retail outlets and the correction of bad marketing practices between retail

(Chart follows)

MARGIN BETWEEN OKLAHOMA WHOLESALE PRICE of GASOLINE and RETAIL PRICE in 50 U.S. CITIES - [CENTS PER GALLON]





5785 gasoline dealers and their suppliers. Entirely aside from the fact that the Code has failed to protect the independent dealers against certain injustices, it scarcely could be expected to be popular with them because of its very nature.

It should be recalled that for many years the larger oil companies, especially, but to a certain extent the smaller refiners and independent jobbers, made it exceedingly easy for people to get into retail marketing. Pumps and tanks were loaned without rental to almost anyone, and often other expensive equipment was installed free. Credit was extended promiscuously. Frequently, beautiful stations were built, equipped and turned over to dealers to operate practically rent free. Secret rebates and discounts were given to many dealers. Thus it is not surprising that thousands of people who found themselves out of jobs—and often out of money—in the early days of the depression, went into business "for themselves" in the retailing of gasoline.

The steadily increasing number of service stations has meant less volume of business per stations and increased marketing costs. These higher costs could not be passed on to the public because of the competition of track-side and other lower price service stations which have large volume of sales and low marketing costs. In fact the competition of track-side stations tends to hasten a reduction in dealers margins.

We believe that many dealers recognize that reduced margins will mean, eventually, fewer stations and lower marketing costs for those that are able to stay in business. Dealers complain, however, that large oil companies are not closing up those stations of their own which they are unable to operate profitably on the margins given to dealers. We consider this a valid and important complaint. Doubtless, enforcement of Rule 6 of Article V (pertaining to use of profits in one branch of the Industry to subsidize losses in another) which we deal with elsewhere, would tend to correct the situation.

Typical of these complaints is a letter written by a consulting engineer who had given financial backing to a relative in the retail gasoline business. After commenting on a recent reduction in the margins to dealers, he writes: "Two new Super-Service Stations are being erected within a stone's throw of my relative's station by companies whose gas he sells, and another chain Super-Service Station is going up nearby. In the community where I live, north

of New York, four such stations have been erected within a few months and the small men are being wrecked.
5786 These company stations have so many attendants and such a high investment cost that it is obvious they could not fail to lose money if they were charged on the books for oil and gas at the same prices they charge to independent marketers."

Another marketer commenting on the situation writes: "The principal reason for the multiplicity of service stations is that every integrated company feels it must have service stations in every neighborhood of every city of every State. The local representative here of the ..... Oil Company told me he would never be satisfied until his company had service stations in every neighborhood in our city giving them a total of 15 or 20 stations. Other integrated companies appear to have the same idea and soon we will have each of them represented by a service station in every neighborhood—if there are enough corners for all of them."

A number of those who sent in complaints call attention to the figures submitted in connection with the arbitration of the service station strike in Cleveland last summer, as published in the National Petroleum News. The exhibits presented by ten large oil companies showed that average costs for marketing through their own service stations had averaged 9.63¢ per gallon of gasoline sold during 1933. If, from these figures, is deducted the entire gross profit made on non-gasoline products (equal to 1.7¢ per gallon of gasoline sold) the net cost of selling the gasoline itself would appear to have been approximately 7.93¢ per gallon. This cost, which includes a proper share of bulk plant and overhead expense, compares with an average combined margin at that time to jobbers and dealers of less than 6¢ per gallon. We believe that these costs are reasonably typical of major company marketing expense. Obviously such uneconomical operations can exist only by virtue of subsidies from other branches of the Industry.

Dealers' normal margins on gasoline have been lessened through the giving of discounts at service stations in violation of the Code. Before the Code was adopted, service station discounts in many areas averaged more than 1¢ per gallon on the total volume of business. When the Code was adopted it was thought that Rule 3 (paragraph 4) of Article V, prohibiting the giving of discounts at service stations, would afford dealers a corresponding increase in margin to absorb their increased labor expense, but wide-

spread violations of this rule have greatly reduced the intended benefit. This rule is simple and easy to understand, and in our opinion, is one of the most constructive rules in the Code, yet in certain areas it has been more generally violated than any other rule. In other areas it has been lived up to almost 100%. We believe a more serious effort should be made to enforce it, but at the same time, as we point out elsewhere, steps should be taken to correct
5787 some of the practices which provoke violations of this rule.

We find that independent jobbers have had substantial increases in labor costs and in most cases have received little or no increases in margins between the prices they pay for gasoline in tank car lots and the prices they receive from dealers. In some territories their margins are lower than at any time in recent years.

These rules in the Code intended to help them, such as prohibiting the giving of secret rebates and the loaning or giving away of equipment, appear to have been lived up to quite generally but we believe the resulting savings are insufficient to absorb their increased labor costs.

Many jobbers that have been accustomed to buying their gasoline on the open market from non-integrated refiners have suffered so severely because of local retail price wars that recently increasingly large numbers of them have signed marginal contracts with the larger oil companies. This shifting of source of supply has greatly added to the disability of the small refiners and in many sections has practically eliminated open market gasoline buying except by track-side and other similar tank-car purchasers.

Although the giving of full or partial protection, by the large oil companies, to jobbers in local price wars has taken business away from the smaller refiners, without such protection many of the jobbers could not have survived.

Like other non-integrated units in the Industry, the jobbers complain that the margins they receive are smaller than the cost of corresponding operations of the large companies. They claim that the integrated companies are subsidizing their marketing operations with profits from low cost flush production and pipe line operations. We believe it is reasonable to assume that such deep price cuts in local price wars would not occur if the large companies participating were unable to draw upon reserves from other branches of the Industry.

One of the causes of greatest complaint from service station operators and small jobbers is that in many sections large quantity discounts are being given to consumers tak-

ing delivery by tank truck. We find that this competition is diverting both commercial and pleasure car gasoline gallonage away from service stations. Dealers are tempted to violate the Code by giving similar discounts to hold the business at their service stations but often the tank-truck consumer is getting a price that is as low or lower than the price charged the dealers. We find that the situation has grown much worse since the cancellation of the CD 1 contracts. In fact some large national accounts
5788 having relatively small local requirements in each of hundreds of small cities appear to be obtaining their requirements from certain major oil companies, delivered by tank trucks, at prices which are almost as low as tank-car prices.

We recommend a new CD 1 type of contract providing for consumer tank-wagon prices not more than 2¢ below service station prices and embodying the other provisions contained in the resolution pertaining to this subject as approved February 20, 1934, except that no quantity discounts should be allowed unless 5,000 gallons or more are purchased in a month and the maximum discounts should be 1¢ on 60 octane gasoline and above and ½¢ on below 60 octane. Also quantity discounts should be earned not on the basis of amounts purchased each month from individual suppliers but on the basis of total purchasers, from all suppliers, by single corporations, partnerships or individuals, as evidenced by affidavits filed within 30 days after the end of each month with the Petroleum Administrative Board or some central agency or agencies selected by them. Discounts would be paid after the end of the month, by the supplying company or companies only upon receipt of claim supported by copy of affidavit previously filed with the central agency.

Under the proposed plan distributors operating only in local areas could give the same discounts to national accounts as the larger companies, thus eliminating a source of much controversy and Code violation in connection with the old CD 1 form of contract.

We believe that the full posted service station price for gasoline should apply, without exception, on deliveries of less than 100 gallons and that penalties should be provided for application by the oil companies to tank-truck drivers that combine smaller deliveries and show same as a single dump of 100 gallons or more for the purpose of concealing a price-cut of 2¢ per gallon. Service station dealers are entitled to protection against this prevailing practice concerning which the management usually can plead ignorance.

We find that local price wars tend to promote monopoly in that they bear more heavily on these smaller or non-integrated units that operate only in the affected areas or only in the marketing branch of the Industry. The larger integrated companies can average their losses over a greater territory and over all the branches of their business.

5789 Some smaller marketers that have suffered seriously from gasoline price wars have urged price fixing. We do not favor price fixing; we believe it could not be enforced. Also because of the complexity of the retail gasoline price structure of the Industry, any effort to apply price fixing would result in injustices equally as great as those intended to be corrected.

It is common knowledge that worse price wars have been experienced in the past year than at any time in the history of the Industry. Gasoline has sold at prices that figured back to less than nothing at the refineries. Small jobbers whose losses were not underwritten, at least partially, by some refiner suffered terrific losses. Small refiners who attempted to protect their jobbers suffered correspondingly.

We are of the opinion that price wars cannot be avoided entirely but they can be minimized. There appears to be no excuse for the deep price cuts which involve the selling of gasoline below cost by a majority if not all of the participants. Unquestionably, the limitation of such serious price wars would be a real step toward solving some of the most serious problems affecting both small marketers and small refiners.

Usually price wars do not accomplish their ostensible purpose. In fact, many of them cannot be explained except on the basis of some sinister motive. It should be possible to put such restrictions around severe price reductions as to make it difficult for companies to precipitate such disturbances for purposes that are not apparent. Certain large integrated companies have engaged in price wars in certain areas ostensibly because of competition of a few track-side stations, when it was generally believed that their real purpose was to destroy other local competition which happened to have a large share of the business in that area.

Large oil companies have, or we believe should have, formulae which they use in determining their prices in the various areas in which they are the most important factors. We recommend that these large companies that are generally recognized as the dominant factors in their respec-

tive areas file with the proper stabilization committee the formulae by which they determine their normal price levels in the different areas, together with a statement of the reasons for any deviations therefrom which they may make from time to time. Also we recommend that similar information be filed by their competitors. These smaller companies that merely follow the markets of leaders in the Industry, should so state that to be their policy; similarly, those independent or small marketers that do not follow the leadership of the larger companies should state their manner of determining their price levels.

5790 To discourage the further building of gasoline service stations, we recommend that authority be given to marketers of petroleum products to enter into compacts with each other, subject to the approval of the Administrator, whereby the building of new service stations, by the parties thereto, or the substantial re-building of existing stations, would be either discontinued or restricted in certain agreed upon areas.

5791 **V**

General

In so far as this Committee has been able to determine, the transportation of crude oil has not been affected adversely by the Code. No complaints having been received from this branch of the Industry it may be reasonably assumed that those small enterprises engaged in such transportation are satisfied with respect to the effect of the Code on their operations. The Committee therefore has no recommendation to make on this subject other than the general one that profits from this branch of an integrated enterprise should not be diverted to subsidize another branch to the detriment of competitors.

To obtain a better balance of gasoline supply in relation to consumptive demand as between the smaller companies on one hand and the larger companies on the other, we recommend that authority be given to refiners to enter into compacts with each other, subject to approval of the Administrator, to restrict voluntarily their respective gasoline productions below the allocations as given them under Sections 3 and 4 of Article IV of the Code, and to transfer to smaller companies all or any part of that portion of their allowable production thus curtailed.

In order that the smaller companies may have the same advance information concerning impending changes in Code

interpretations, rules, policies, etc., that is now enjoyed by the larger companies that have representation on the principal committees dealing with such matters, we recommend that meetings of the Planning and Coordination Committee and the principal committees under them be open to the trade press.

We believe the present Code organization with its great number of local, state, regional and national committees and sub-committees, is unnecessarily cumbersome and expensive to the Industry. We recommend that the general set-up be simplified and more adequate representation in each branch of the Industry be given to small and non-integrated enterprises.

We find that small enterprises have suffered from failure to enforce certain provisions of the Code which apparently are unenforceable either because of doubtful legality or because of the nature of the provisions. We recommend that when the Code is redrafted, such provisions either be dropped entirely or be segregated into a separate section, adherence to which would be by mutual voluntary agreement.

5792

Respectfully submitted,

(signed) Paul Blazer
Chairman

(signed) Mason Houghland
Member

(signed) R. E. Allen
Member

(signed) H. B. Fell
Member

(signed) Sidney Swensrud
Member

P.A.B. 97815

TREND of WHOLESALE GASOLINE PRICE SINCE CODE

[Low Chicago Resale Price F.O.B. Group 3]

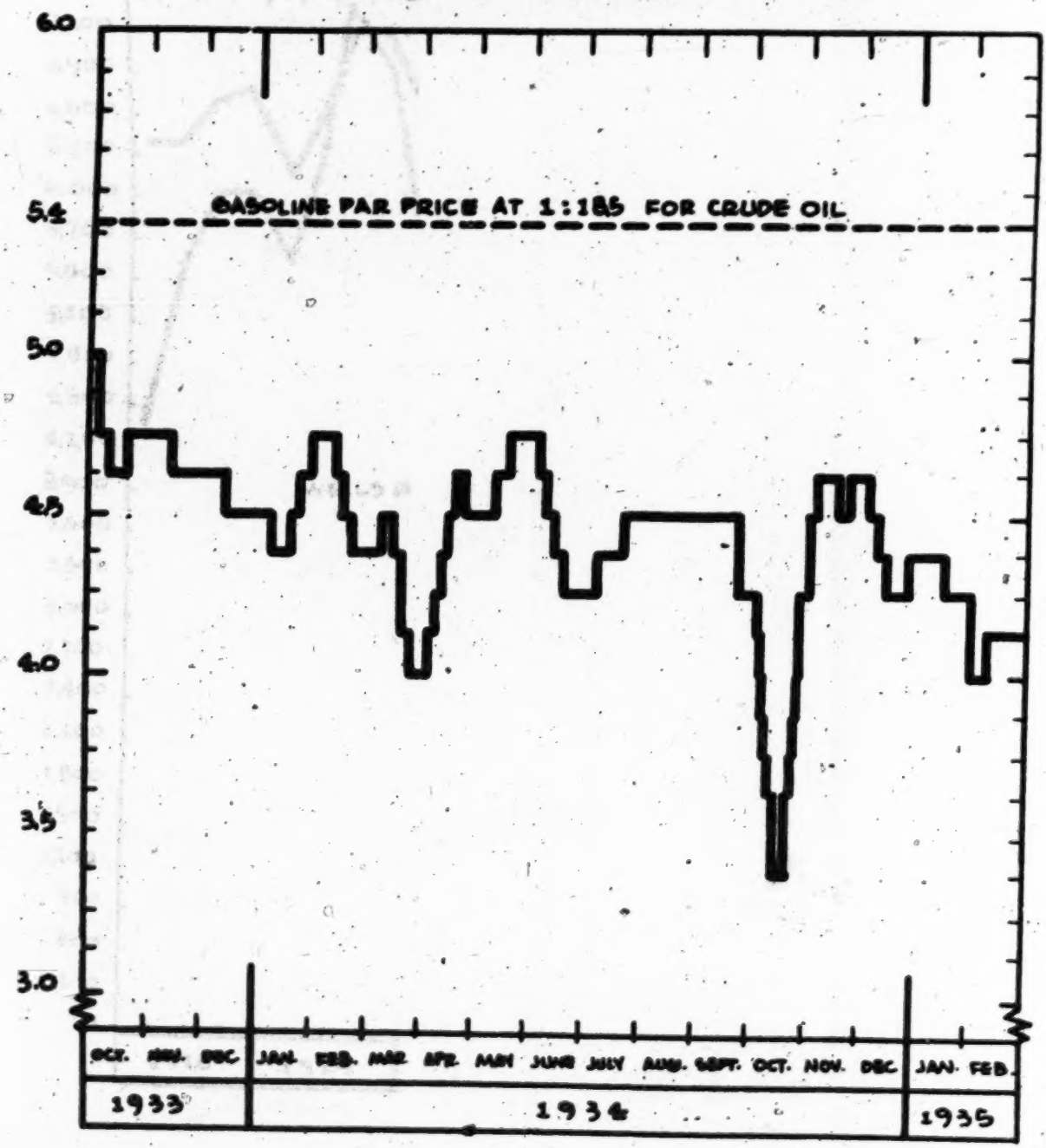
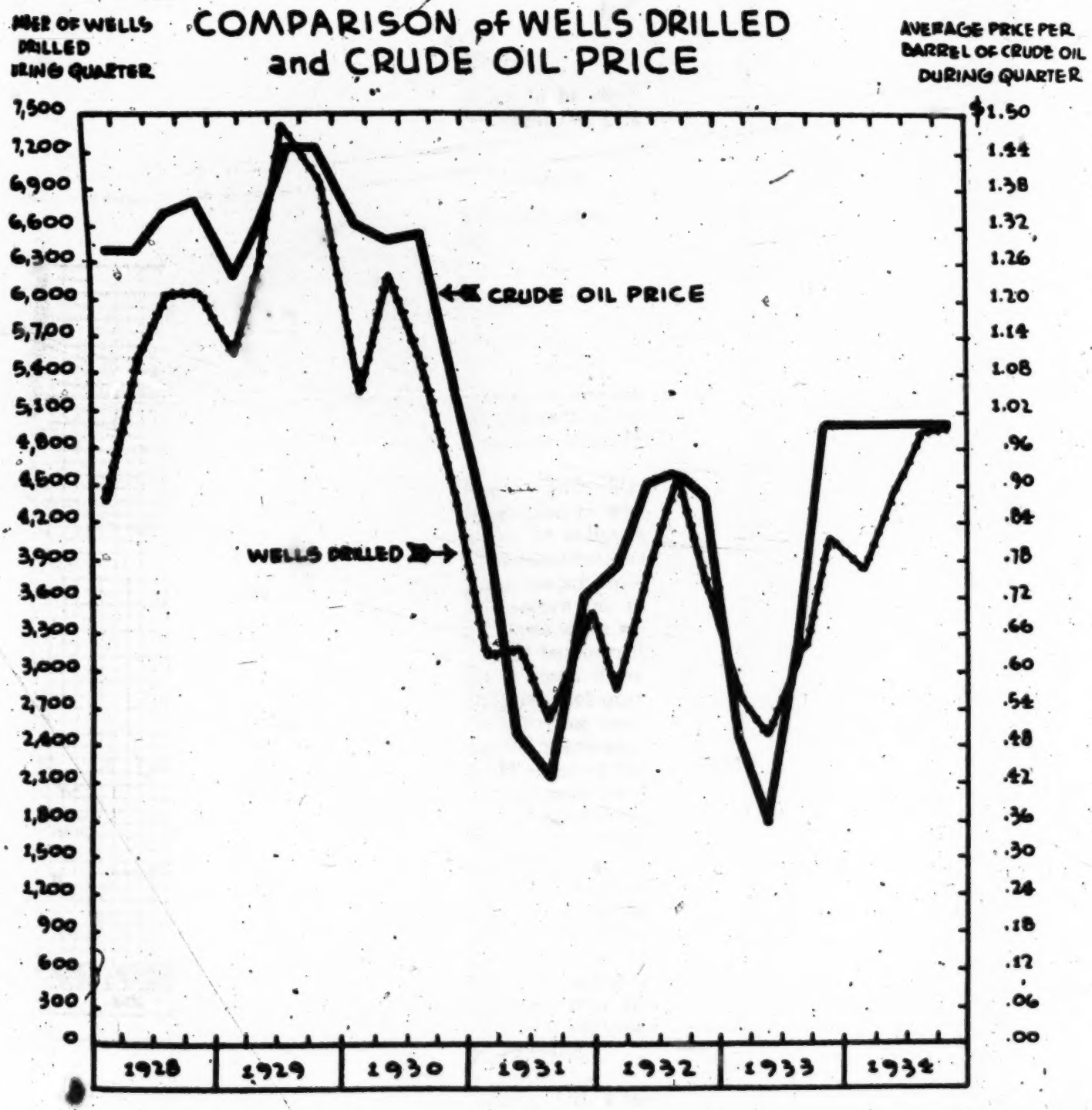


EXHIBIT I


COMPARISON of WELLS DRILLED and CRUDE OIL PRICE
NBER OF WELLS DRILLED DRING QUARTER
AVERAGE PRICE PER BARREL OF CRUDE OIL DURING QUARTER
7,500
7,200
6,900
6,600
6,300
6,000
5,700
5,400
5,100
4,800
4,500
4,200
3,900
3,600
3,300
3,000
2,700
2,400
2,100
1,800
1,500
1,200
900
600
300
0
$1.50
1.44
1.38
1.32
1.26
1.20
1.14
1.08
1.02
.96
.90
.84
.78
.72
.66
.60
.54
.48
.42
.36
.30
.24
.18
.12
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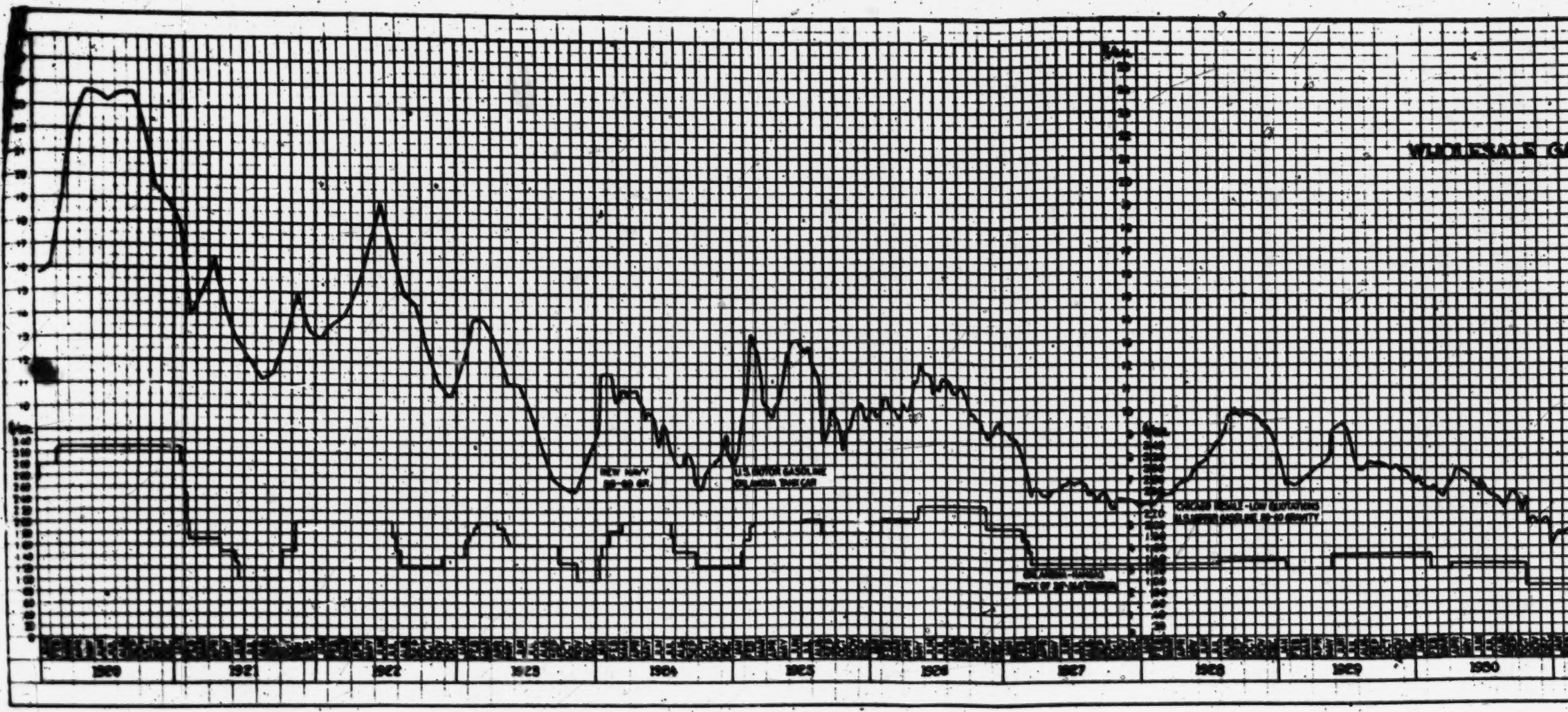
CRUDE OIL PRICE
WELLS DRILLED
1928
1929
1930
1931
1932
1933
1934


1920
1921
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1923
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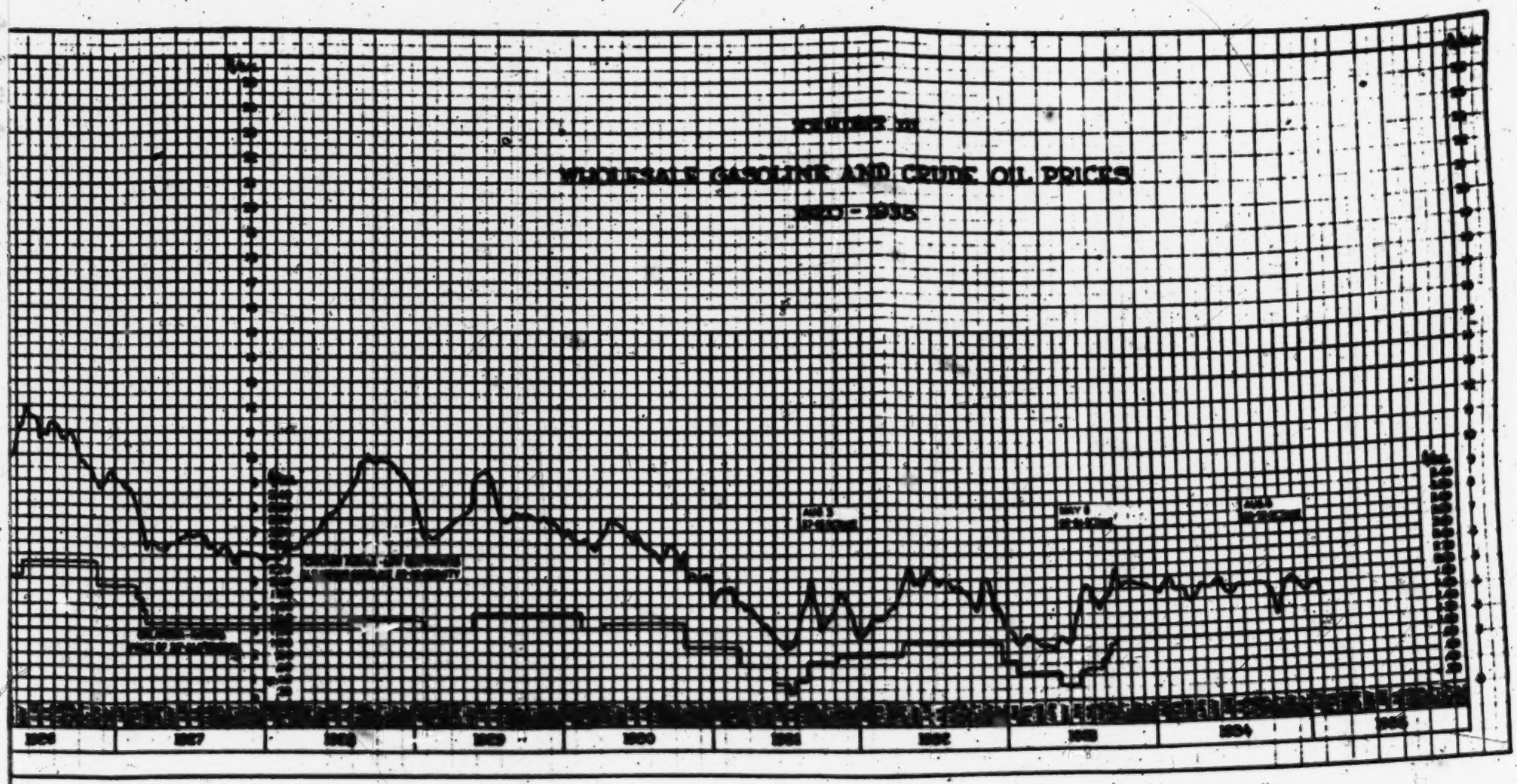
1928
1929
1930


WHOLESALE GASOLINE AND CRUDE OIL PRICES
1920 - 1935
1926
1927
1928
1929
1930
1931
1932
1933
1934
1935

5796 **DEFENSE EXHIBIT NO. 925.**

(Certified by the Department of the Interior to be copy of letter dated May 9, 1935, signed by W. J. Brundred and addressed to Chas. Fahy.)

5797 Central Pennsylvania Oil Producers Association

Oil City, Pennsylvania
May 9, 1935

Mr. Chas. Fahy, Chairman
The Petroleum Administrative Board
Lemon Building
Washington, D. C.

Dear Mr. Fahy:

Producers in this section have been very sorry to see the gradual stepping-up of Pennsylvania's crude allocation, inasmuch as producers and refiners both feel we are already producing and refining too much oil.

Shortly after the meeting in Pittsburgh which Mr. Shaughnessy attended, a committee of seven producers was appointed to confer with seven representatives of refiners to see if the situation could be remedied. Representatives of three major companies were present. Both major companies and independents agreed runs to stills were far in excess of what they should be and thought if runs were reduced to 60,000, it would still take a long time to correct top-heavy inventories, which inventories have been accumulating for some time past and have demoralized not only the Pennsylvania Grade, but the national lubricating market as well. The low price on Pennsylvania lubricants (our money crop) if making it very difficult for some of the smaller refineries—two of these refineries in this area have stopped running crude due to this condition, and producers who formerly sold their crude oil to them are endeavoring to find other markets. This is made more difficult by the fact that a considerable quantity of Bradford district crude is moving below the market. One refiner states that he would be able to contract for 28,000 barrels of Bradford district crude per month over a six month's period at 15 cents below the market. Unless production and refinery runs can be curtailed, the outlook for producers and refineries marketing non-branded lubricants is very serious.

We sincerely hope the Thomas Bill will be enacted.

Yours very truly,
Central Pennsylvania Oil Producers Association,
By: (Sgd) W. J. Brundred,
Vice-President.

WJB:k

5802

CONTINENTAL OIL COMPANY—SPOT SALES TO JOBBERS IN MID-WESTERN AREA

C.O. Co. Order No.	Name of Jobber and Destination	Date of Order	Date Shipped	Quantity & Octane Bracket 63-70	Quantity & Octane Bracket 62 & Below	Description of Product	Sales f. o. b. Point
2-77	Frank Strunk, Kansas City, Mo	1- 5-35	1- 7-35	8,178		Conoco Bronze	Kansas City
3-5041	Erie Oil Company, Sheboygan, Wisc	1- 4-35	1- 8-35		8,183	68-70, 360 E. P.	Group 3
2-400	R. C. Martin, De Lassus, Mo	1-28-35	1-29-35	8,251		Conoco Bronze	Ponca City
2-491	Bloom Co-op. Oil Co., Bloom, Kansas	2- 1-35	2- 6-35	4,040		Conoco Bronze	Ponca City
2-491	Bloom Co-op. Oil Co., Bloom, Kansas	2- 1-35	2- 6-35		4,020	Demand	Ponca City
3-5568	Triangle Oil Company, La Porte, Ind	2-16-35	2-19-35		4,038	64-66, 375 E. P.	Group 3
3-5724	Ernest Brinkerhoff, Elkhart, Ind	2-26-35	3- 1-35		4,026	64-66, 375 E. P.	Group 3
2-973	A. R. Granneman, Slater, Mo	3- 5-35	3- 6-35	8,183		Conoco Bronze	Ponca City
2-1236	A. R. Granneman, Gilliam, Mo	3-20-35	3-21-35		8,101	Demand	Ponca City

5803

C.O.Co. Order No.	..ame of Jobber and Destination	Date of Order	Date Shipped	Quantity & Octane Bracket 63-70	Quantity & Octane Bracket 62 & Below	Description of Product	Sales f. o. b. Point	Sales Price Per Gal.
2-1318	A. R. Granneman, Slater, Mo	3-25-35	3-26-35	8,085		Conoco Bronze	Ponca City	$.0500
2-1388	A. R. Granneman, Gilliam, Mo	3-28-35	3-29-35	8,086		Conoco Bronze	Ponca City	.0500
2-1470	R. C. Martin De Lassus, Mo	4- 1-35	4- 2-35	8,104		Conoco Bronze	Ponca City	.05125
2-1578	A. R. Granneman, Slater, Mo	4- 5-35	4- 6-35	8,115		Conoco Bronze	Ponca City	.05125
3-6252	Dickson Oil Co., Brazil, Ind	4- 6-35	4- 8-35		8,219	Demand	Group 3	.0425
2-1652	C. Humbert Tinsman Kansas City, Mo	4- 9-35	4-10-35	8,156		Conoco Bronze	Ponca City	.0525
2-1691	C. Humbert Tinsman, Kansas City, Mo	4-12-35	4-13-35	8,208		Conoco Bronze	Ponca City	.0525
2-1747	C. Humbert Tinsman, Kansas City, Mo	4-16-35	4-17-35	10,236		Conoco Bronze	Ponca City	.05375
2-1740	A. R. Granneman, Gilliam, Mo	4-16-35	4-17-35	8,093		Conoco Bronze	Ponca City	.05375
2-1819	A. R. Granneman, Slater, Mo	4-20-35	4-22-35	8,113		Conoco Bronze	Ponca City	.05375
3-6429	Ernest Brinkerhoff, Elkhart, Ind	4-22-35	4-24-35		8,117	64-66, 375 E. P.	Group 3	.0466
2-1940	Neely Oil Company, Ellington, Mo	4-26-35	4-27-35	8,011		Conoco Bronze	Ponca City	.05375

2-2016	Neely Oil Company, Chicopee, Mo..	4-30-35	5- 1-35	8,111			Conoco Bronze	Ponca City	$.05375
2-2069	Bloom Co-op. Oil Co., Bloom, Kansas	5- 2-35	5- 4-35	4,015			Conoco Bronze	Ponca City	.05375
2-2069	Bloom Co-op. Oil Co., Bloom, Kansas	5- 2-35	5- 4-35		4,013	Demand		Ponca City	.0450
2-2109	Neely Oil Company, Ellington, Mo..	5- 6-35	5- 7-35	8,159			Conoco Bronze	Ponca City	.05375
3-6629	Michigamme Oil Co., Ann Arbor, Mich	5- 7-35	5- 7-35	8,132			Conoco Bronze	Group 3	.05375
2-2255	Neely Oil Company, Chicopee, Mo..	5-13-35	5-13-35	8,083			Conoco Bronze	Ponca City	.0550
2-2276	D. A. Winters Tire Co., Wichita, Kansas	5-14-35	5-15-35	8,083			Conoco Bronze	Wichita	.0629
3-6771	Michigamme Oil Co., Ann Arbor, Mich	5-20-35	5-20-35	8,127			Conoco Bronze	Group 3	.0550
3-6882	Michigamme Oil Co., Ann Arbor, Mich	5-27-35	5-28-35	8,108			Conoco Bronze	Group 3	.05186
3-6847	Campeco Oil Co., Manistee, Mich...	5-24-35	5-25-35	6,539			Conoco Bronze	Group 3	.0550
2-2458	R. C. Martin, De Lassus, Mo.....	5-27-35	5-28-35	8,032			Conoco Bronze	Ponca City	.05625
3-6072	Stephani Strupp Oil Co., Manitowoc, Wisc	6- 3-35	6- 5-35		8,087	64-66, 375 E. P.		Group 3	.0494
5805									
3-7052	Ernest Brinkerhoff, Elkhart, Ind....	6-10-35	6-12-35		8,009	64-66, 375 E. P.		Group 3	$.0494
3-7227	Triangle Oil Co., LaPorte, Ind.....	6-22-35	6-25-35		3,954	64-66, 375 E. P.		Group 3	.0494
3-7188	Ideal Service Station, Bremen, Ind..	6-19-35	6-25-35		6,034	64-66, 375 E. P.		Group 3	.0494
3-7719	Ideal Service Station, Bremen, Ind..	6-27-35	6-30-35		6,487	64-66, 375 E. P.		Group 3	.0494
3-8031	Ideal Service Station, Bremen, Ind..	8-19-35	8-22-35		3,920	64-66, 375 E. P.		Group 3	.0494
3-8287	Ideal Service Station, Bremen, Ind..	9- 4-35	9- 6-35		3,974	64-66, 375 E. P.		Group 3	.0494
3-8363	Stephani Strupp Oil Co., Manitowoc, Wisc	9-10-35	9-16-35		6,546	64-66, 375 E. P.		Group 3	.0494
3-8557	Ernest Brinkerhoff, Elkhart, Ind....	9-16-35	9-20-35		3,940	64-66, 375 E. P.		Group 3	.0494
3-8575	Ideal Service Station, Bremen, Ind..	9-17-35	9-20-35		3,945	64-66, 375 E. P.		Group 3	.0494
2-5070	DeForest Oil Co., Farmington, Mo..	9-24-35	9-25-35	7,980			Conoco Bronze	Ponca City	.0575
3-8737	Ideal Service Station, Bremen, Ind..	9-28-35	10- 1-35		3,980	64-66, 375 E. P.		Group 3	.0494
3-8951	Ernest Brinkerhoff, Elkhart, Ind....	10-14-35	10-16-35		8,000	64-66, 375 E. P.		Group 3	.0494
5806									
3-9015	Ideal Service Station, Bremen, Ind..	10-17-35	10-21-35		3,995	64-66, 375 E. P.		Group 3	$.0494
3-9107	Erie Oil Company Sheboygan, Wisc.	10-25-35	10-29-35		8,125	68-70, 360 E. P.		Group 3	.0569
3-9282	Borton's Super Service, Alma, Mich.	11- 7-35	11- 8-35	6,551			Conoco Bronze	Group 3	.0575
2-6021	Cox-Prigel Oil Co., Raytown, Mo...	11-15-35	11-15-35	8,143			Conoco Bronze	Ponca City	.0575
3-9345	Erie Oil Co., Sheboygan, Wisc.....	11-13-35	11-16-35		8,201	68-70, 360 E. P.		Group 3	.0569
2-6048	Boyd Brothers, Laddonia, Mo.....	11-15-35	11-18-35	3,421			Conoco Bronze	Ponca City	.0575
2-6048	Boyd Brothers, Laddonia, Mo.....	11-15-35	11-18-35		3,348	Demand		Ponca City	.0487
3-9553	Petosky Oil Co., Petosky, Mich.....	12- 2-35	12- 2-35	8,326			Conoco Bronze	Group 3	.0569

C.O.Co. Order No.	Name of Jobber and Destination	Date of Order	Date Shipped	Quantity & Octane Bracket 63-70	Quantity & Octane Bracket 62 & Below	Description of Product	Sales f. o. b. Point	Sales Price Per Gal.
2-1942	Checker Board ,Camps, Coolidge, Kansas	12- 9-35	12-12-35	4,038		Conoco Bronze	Ponca City	.0575
3-2046x	Stephani Strupp Oil Co., Manitowoc, Wisc	12-26-35	12-27-35		8,222	64-66, 375 E. P.	Group 3	.0494
3-9827	Ernest Brinkerhoff, Elkhart, Ind.	12-24-35	12-30-35		4,059	64-66, 375 E. P.	Ponca City	.0494
Sub Total	2-1-35 - 12-31-35		209,278		143,360			
Total	1-1-35 - 12-31-35		225,707		151,543			
5807								
3-5263	Norris Oil Service, Rochester	1-21-36	1-22-36	8,317		Conoco Bronze	Group 3	$.0625
3-5274	Ideal Serv. Sta., Bremen, Indiana	1-22-36	1-24-36		4,068	64-66, 375 E. P.	Ponca City	.05375
2-769	Leonard Oil Company, Windsor, Missouri	2-20-36	2-20-36	8,385		Conoco Bronze	Ponca City	.0625
3-5804	Ideal Serv. Station, Bremen, Indiana	2-24-36	3- 3-36		4,009	64-66, 375 E. P.	Ponca City	.0522
3-5834	Ernest Brinkerhoff, Elkhart, Indiana	2-26-36	3- 5-36		3,995	64-66, 375 E. P.	Ponca City	.0522
2-899	Leonard Oil Company, Cole Camp, Missouri	3- 2-36	3- 7-36	4,020		Conoco Bronze	Ponca City	.0625
2-1043	Leonard Oil Company, Windsor, Missouri	3- 9-36	3- 9-36	8,152		Conoco Bronze	Ponca City	.0625
3-6129	Ideal Serv. Station, Bremen, Indiana	3-21-36	3-25-36		4,015	64-66, 375 E. P.	Ponca City	.0522
2-1455	Leonard Oil Company, Windsor, Missouri	3-30-36	3-31-36	8,145		Conoco Bronze	Ponca City	.0625
2-1456	Leonard Oil Company, Cole Camp, Mo	3-30-36	3-31-36	8,237		Conoco Bronze	Ponca City	.0625
3-6216	Ideal Serv. Station, Bremen, Indiana	3-28-36	4- 1-36		3,343	Special Gaso.	Ponca City	.0809
2-1592	Clyde C. Yount, Wichita, Kansas	4- 6-36	4- 9-36	4,030		Conoco Bronze	Ponca City	.0625
5808								
2-1592	Clyde C. Yount, Wichita, Kansas	4- 6-36	4- 9-36		4,027	Demand Gaso.	Ponca City	$.0525
2-1680	Excel Oil Company, Mascoutah, Ill.	4- 9-36	4-10-36	6,557		Conoco Bronze	Ponca City	.0625
2-799	Clyde C. Yount, Wichita, Kansas	4-13-36	4-14-36	8,111 (68-70) (Octane)		Conoco Bronze	Ponca City	.0625
3-6551	Ernest Brinkerhoff, Elkhart, Indiana	4-15-36	4-20-36		3,998	64-66, 375 E. P.	Ponca City	.0522
3-6556	Ideal Serv. Station, Bremen, Indiana	4-16-36	4-21-36		4,000	64-66, 375 E. P.	Ponca City	.0522
2-1950	Hoover-Lewis Oil Co., Princetown, Mo	4-23-36	4-24-36	6,499		Conoco Bronze	Ponca City	.0625
2-1945	A. R. Granneman, Gilliam, Missouri	4-23-36	4-24-36	8,070		Conoco Bronze	Ponca City	.0625

2-1936	A. R. Granneman, Slater, Missouri..	4-23-36	4-24-36	8,131		Conoco Bronze	Ponca City	.0625
3-6573	Barstow Oil Company, Menominee, Michigan	4-17-36	4-28-36		3,035	Special Gaso.	Ponca City	.08125
3-6752	Knowlton Oil Company, Knowlton, Wisconsin	4-30-36	5- 1-36	6,509		Conoco Bronze	Group 3	.0625
2-2245	A. R. Granneman, Slater, Missouri..	5- 9-36	5-11-36	8,091		Conoco Bronze	Ponca City	.0625
5809								
2-2244	A. R. Granneman, Gilliam, Missouri	5- 9-36	5-11-36	8,035		Conoco Bronze	Ponca City	$.0625
2-2254	A. R. Granneman, Gilliam, Missouri	5-11-36	5-12-36		8,064	Demand Gaso.	Ponca City	.0525
3-6901	Stephani-Strupp, Manitowoc, Wisc..	5-12-36	5-14-36		8,022	64-66, 375 E. P.	Ponca City	.0521
2-2497	A. R. Granneman, Gilliam, Missouri	5-21-36	5-21-36	8,050		Conoco Bronze	Ponca City	.0625
2-2506	Sands Petr. Company, Marceline, Mo.	5-21-36	5-22-36	8,107		Conoco Bronze	Ponca City	.0625
2-2508	A. R. Granneman, Slater, Missouri..	5-21-36	5-23-36	8,097		Conoco Bronze	Ponca City	.0625
3-7006	Ideal Serv. Station, Bremen, Indiana	5-20-36	5-26-36		3,276	64-66, 375 E. P.	Ponca City	.05125
3-7064	Ernest Brinkerhoff, Elkhart, Indiana	5-25-36	5-29-36		3,967	64-66, 375 E. P.	Ponca City	.0506
2-2652	Neely Oil Company, Chicopee, Missouri	5-29-36	6- 2-36	8,004		Conoco Bronze	Ponca City	.0625
2-2797	A. R. Granneman, Gilliam, Missouri	6- 3-36	6- 4-36	7,996		Conoco Bronze	Ponca City	.0625
2-2796	A. R. Granneman, Slater, Missouri..	6- 3-36	6- 4-36	8,081		Conoco Bronze	Ponca City	.0625
5810								
2-2774	Neely Oil Company, Ellington, Mo..	6- 3-36	6- 4-36	8,083		Conoco Bronze	Ponca City	$.0625
2-2896	Neely Oil Company, Chicopee, Mo..	6- 9-36	6-10-36	8,002		Conoco Bronze	Ponca City	.0625
3-7233	Ideal Service Sta., Bremen, Indiana.	6- 5-36	6-11-36		3,933	64-66, 375 E. P.	Ponca City	.0506
2-3014	Neely Oil Company, Ellington, Mo..	6-12-36	6-13-36	8,031		Conoco Bronze	Ponca City	.06125
2-3008	A. R. Granneman, Gilliam, Missouri	6-12-36	6-13-36	8,028		Conoco Bronze	Ponca City	.06125
2-3009	A. R. Granneman, Slater, Missouri..	6-12-36	6-13-36	8,021		Conoco Bronze	Ponca City	.06125
2-3041	Neely Oil Company, Bunker, Missouri	6-13-36	6-15-36	8,0[illegible]		Conoco Bronze	Ponca City	.06125
2-3116	Neely Oil Company, Chicopee, Mo..	6-16-36	6-17-36	8,049		Conoco Bronze	Ponca City	.06125
3-7360	Ernest Brinkerhoff, Elkhart, Indiana	6-15-36	6-18-36		7,937	64-66, 375 E. P.	Ponca City	.0506
2-3205	A. R. Granneman, Gilliam, Missouri	6-18-36	6-19-36	7,984		Conoco Bronze	Ponca City	.06125
2-3206	A. R. Granneman, Slater, Missouri..	6-18-36	6-19-36	8,007		Conoco Bronze	Ponca City	.06125
3-7468	Ideal Serv. Station Bremen, Indiana	6-23-36	6-26-36		3,940	64-66, 375 E. P.	Ponca City	.0506
5811								
2-3391x	A. R. Granneman, Gilliam, Missouri.	6-26-36	6-27-36	7,943		Conoco Bronze	Ponca City	$.06125
2-3390	A. R. Granneman, Slater, Missouri..	6-26-36	6-27-36	7,947		Conoco Bronze	Ponca City	.06125
2-3531	A. R. Granneman, Slater, Missouri..	7- 3-36	7- 3-36	7,935		Conoco Bronze	Ponca City	.06125
2-3532	A. R. Granneman, Gilliam, Missouri	7- 3-36	7- 3-36	7,921		Conoco Bronze	Ponca City	.06125
3-7653	Ideal Serv. Station Bremen, Indiana	7- 7-36	7- 9-36		3,245	64-66, 375 E. P.	Ponca City	.0506
2-3719	A. R. Granneman, Gilliam, Missouri.	7-10-36	7-11-36	7,913		Conoco Bronze	Ponca City	.06125

C.O.Co. Order No.	Name of Jobber and Destination	Date of Order	Date Shipped	Quantity & Octane Bracket 63-70	Quantity & Octane Bracket 62 & Below	Description of Product	Sales f. o. b. Point	Sales Price Per Gal.
2-3718	A. R. Granneman, Slater, Missouri..	7-10-36	7-11-36	7,908		Conoco Bronze	Ponca City	06125
2-3952	A. R. Granneman, Gilliam, Missouri.	7-21-36	7-22-36	7,934		Conoco Bronze	Ponca City	.06125
2-3955	A. R. Granneman, Slater, Missouri..	7-21-36	7-22-36	7,981		Conoco Bronze	Ponca City	.06125
2-4111	A. R. Granneman, Gilliam, Missouri.	7-29-36	7-29-36	4,144		Conoco Bronze	Ponca City	.06125
2-4111	A. R. Granneman, Gilliam, Missouri.	7-29-36	7-29-36		1,935	Demand Gaso.	Ponca City	.05
3-7964	Ideal Service Sta. Bremen, Indiana.	7-28-36	7-30-36		3,901	64-66, 375 E. P.	Ponca City	.0506
5812								
2-4163	A. R. Granneman, Slater, Missouri..	7-30-36	7-31-36	7,954		Conoco Bronze	Ponca City	$.06125
2-4244	A. R. Granneman, Gilliam, Missouri.	8- 4-36	8- 5-36	7,900		Conoco Bronze	Ponca City	.06125
2-4331	A. R. Granneman, Slater, Missouri..	8- 6-36	8- 7-36	7,948		Conoco Bronze	Ponca City	.06125
2-4483	A. R. Granneman, Slater, Missouri..	8-12-36	8-13-36	8,022		Conoco Bronze	Ponca City	.06125
2-4484	A. R. Granneman, Gilliam, Missouri.	8-12-36	8-13-36		2,790	Demand Gaso.	Ponca City	.0494
2-4484	A. R. Granneman, Gilliam, Missouri.	8-12-36	8-13-36	5,031		Conoco Bronze	Ponca City	.0604
2-4558	A. R. Granneman, Gilliam, Missouri.	8-17-36	8-18-36	7,893		Conoco Bronze	Ponca City	.06125
2-4588	A. R. Granneman, Slater, Missouri..	8-17-36	8-18-36	7,902		Conoco Bronze	Ponca City	.06125
2-1719	A. R. Granneman, Gilliam, Missouri.	8-21-36	8-25-36	3,262		Conoco Bronze	Ponca City	.06125
2-4778	A. R. Granneman, Slater, Missouri..	8-25-36	8-26-36	7,979		Conoco Bronze	Ponca City	.06125
2-4897	Hill Oil Company, Washington, Kansas	8-30-36	9- 1-36	6,393		Conoco Bronze	Ponca City	.06125
3-8974	Freeport Petr. Corp., Freeport, Illinois	10- 7-36	10-10-36		3,313	64-66, 375 E. P.	Group 3	.0506
5813								
3-8990	Ideal Serv. Sta. Bremen, Indiana	10- 8-36	10-14-36		3,315	64-66, 375 E. P.	Group 3	$.0506
2-6732	Admire Oil Company Admire, Kansas	11-28-36	12- 1-36	4,037		Conoco Bronze	Ponca City	.05875
2-7041	Admire Oil Company, Admire, Kansas	12-15-36	12-15-36	8,157		Conoco Bronze	Ponca City	.05875
	Total 1/1/36 to 12/31/36			379,949	92,127			
	Grand Total 1/1/35 to 12/31/36			605,656	243,670			

5814 DEFENSE EXHIBIT NO. 927.

5815 It is hereby stipulated that George Collins, Auditor of Omar Refining Company of Tulsa, Oklahoma, if called as a witness in the above entitled action, would testify that the quantities of gasoline manufactured and sold by Omar Refining Company from February 1, 1935 to December 31, 1936, as reflected by the books and records of Omar Refining Company are as set forth in Exhibit A hereto annexed.

As so stipulated, said figures are received in evidence in the above entitled action without objection.

5816 EXHIBIT A.

Omar Refining Company

	Gasoline Production (In Gallons)	Gasoline Sales
1935		
Feb.	613,456	65,482
Mar.	2,092,691	1,677,573
Apr.	2,092,731	2,597,258
May	2,125,271	1,784,818
June	2,348,135	2,874,730
July	2,350,077	2,256,575
Aug.	2,489,434	2,628,060
Sept.	2,570,601	2,467,262
Oct.	2,489,039	2,450,153
Nov.	2,602,376	2,361,678
Dec.	2,628,891	2,173,870
Total 1935	24,402,702	23,337,459
1936		
Jan.	2,065,427	1,989,161
Feb.	2,002,692	1,482,092
Mar.	2,611,765	2,476,652
Apr.	2,222,867	2,247,101
May	2,457,613	2,366,961
June	2,513,679	3,142,713
July	2,422,175	2,064,965
Aug.	2,596,216	3,62[illegible],870
Sept.	3,021,450	3,351,738
Oct.	3,218,254	3,084,106
Nov.	2,955,634	3,024,346
Dec.	2,826,711	2,951,703
Total 1936	30,914,483	31,810,408

5817 **DEFENSE EXHIBIT NO. 928.**

5818 It is hereby stipulated that M. L. Smith, Assistant Purchasing Agent of Kanotex Refining Company at Arkansas City, Kansas, if called as a witness in the above entitled action, would testify that the quantities of gasoline manufactured and sold by Kanotex Refining Company by months from January 1, 1934 to December 31, 1936, inclusive, as reflected by the books and records of Kanotex Refining Company, are as set forth in Exhibit "A" hereto annexed.

As so stipulated, said figures are received in evidence in the above entitled action without objection.

5819

EXHIBIT "A".

Kanotex Refining Company
Arkansas City, Kansas

	Gasoline Production (In Gallons)	Gasoline Sales
1934		
January	3,479,896	4,732,662
February	3,404,021	3,125,042
March	3,831,784	3,797,163
April	4,206,075	4,297,925
May	4,792,761	3,948,466
June	4,012,952	4,613,107
July	3,773,187	4,104,274
August	3,562,877	3,818,170
September	4,084,626	4,312,683
October	4,371,186	3,921,499
November	3,192,779	3,392,118
December	3,782,947	2,822,052
Total 1934	46,495,091	46,885,161
1935		
January	4,079,846	2,855,466
February	3,201,061	3,226,336
March	3,800,912	3,928,701
April	3,988,986	4,491,434
May	3,784,475	4,571,218
June	4,422,281	5,365,020
July	4,811,476	5,432,876
August	5,351,223	5,274,838
September	5,402,711	5,360,898
October	5,152,443	5,212,342
November	5,149,956	4,325,246
December	4,119,713	3,915,400
Total 1935	53,265,083	53,959,775
1936		
January	5,065,166	3,678,354
February	4,315,268	2,531,775
March	4,398,707	3,956,040
April	4,023,497	4,664,609
May	4,043,093	4,278,738
June	4,429,982	5,202,534
July	4,030,255	5,328,244
August	4,504,951	4,818,684
September	4,413,169	4,540,958
October	3,946,219	4,161,532
November	3,904,696	3,527,322
December	4,448,972	3,520,113
Total 1936	51,523,975	50,208,908

5820 **DEFENSE EXHIBIT NO. 929.**

5821 It is hereby stipulated that L. D. Hinman, Vice-President and Auditor of Eason Oil Company, of Enid, Oklahoma, if called as a witness in the above entitled action, would testify that the quantities of gasoline manufactured and sold by Eason Oil Company, by months from January 1, 1934 to December 31, 1936, inclusive, as reflected by the books and records of Eason Oil Company, are as set forth in Exhibit A hereto annexed.

As so stipulated, said figures are received in evidence in the above entitled action without objection.

5822

EASON OIL COMPANY

Monthly Production and Sales of Gasoline in Gallons
January 1, 1934 to December 31, 1936

	Gasoline Production			Gasoline Sales		
	Not Including Casinghead	Casinghead	Including Casinghead	Including Gasoline Purchases	Gasoline Purchases	Excluding Gasoline Purchases
1934						
January	1,764,001	149,553	1,913,554	2,194,534	3,948	2,190,586
February	1,716,558	146,013	1,862,571	1,811,289	57,362	1,753,927
March	1,994,767	311,679	2,306,446	1,879,215	82,019	1,797,196
April	1,808,972	479,661	2,288,633	1,957,653	104,812	1,852,841
May	1,858,820	281,487	2,140,307	2,179,548	140,209	2,039,339
June	1,928,022	287,826	2,215,848	3,123,536	189,656	2,933,880
July	2,105,600	202,651	2,308,251	2,295,176	92,429	2,202,747
August	1,582,504	196,398	1,778,902	2,115,981	110,657	2,005,324
September	1,650,025	208,192	1,858,217	2,206,380	109,939	2,096,441
October	1,852,247	246,250	2,098,497	2,090,186	124,997	1,965,189
November	1,619,059	257,956	1,877,015	1,880,063	79,404	1,800,659
December	1,784,798	286,743	2,071,541	1,852,814	80,229	1,772,585
Totals—1934	21,665,373	3,054,409	24,719,782	25,586,375	1,175,661	24,410,714

5823

1935						
January	1,702,292	261,437	1,963,729	1,842,050	86,851	1,755,199
February	1,469,693	173,561	1,643,254	1,666,277	67,459	1,598,818
March	1,720,230	214,730	1,934,960	2,144,600	79,566	2,065,034
April	1,761,243	252,065	2,013,308	2,006,734	105,230	1,901,504
May	1,922,449	287,850	2,210,299	2,195,539	73,272	2,122,267
June	2,036,234	276,804	2,313,038	2,804,838	139,252	2,665,586
July	1,917,525	163,090	2,080,615	3,109,500	139,535	2,969,965
August	2,081,696	291,975	2,373,671	2,401,914	90,823	2,311,091
September	1,848,647	296,852	2,145,499	2,218,964	135,247	2,083,717
October	1,884,367	301,391	2,185,758	1,882,636	117,466	1,765,170
November	1,799,897	303,040	2,102,937	1,816,215	72,042	1,744,173
December	1,841,886	247,746	2,089,632	1,777,088	56,678	1,720,410
Totals—1935	21,986,159	3,070,541	25,056,700	25,866,355	1,163,421	24,702,934

5824

	Gasoline Production			Gasoline Sales		
	Not Including Casinghead	Casinghead	Including Casinghead	Including Gasoline Purchases	Gasoline Purchases	Excluding Gasoline Purchases
1936						
January	2,002,702	246,976	2,249,678	2,260,258	27,086	2,233,172
February	1,851,243	266,791	2,118,034	1,488,123	38,981	1,449,142
March	1,805,781	309,437	2,115,218	2,250,601	42,521	2,208,080
April	2,088,850	283,072	2,371,922	1,983,506	2,436	1,981,070
May	2,013,732	253,565	2,267,297	2,076,658	2,771	2,073,887
June	1,662,919	311,738	1,974,657	3,206,637	3,270	3,203,367
July	1,919,719	391,328	2,311,047	3,079,506	29,301	3,050,205
August	1,863,432	284,734	2,148,166	2,047,531	16,419	2,031,112
September	1,922,458	296,025	2,218,483	2,492,217	7,034	2,485,183
October	2,009,876	415,013	2,424,889	2,503,878	18,719	2,485,159
November	2,141,257	427,470	2,568,727	1,908,001	79,104	1,828,897
December	2,116,978	396,494	2,513,472	1,943,328	11,724	1,931,604
Total—1936	23,398,947	3,882,643	27,281,590	27,240,244	279,366	26,960,878
	67,050,479	10,007,593	77,058,072	78,692,974	2,618,448	76,074,526

5825

Inventory, January 1, 1934			1,078,688
Production, including casinghead			77,058,072
Add arithmetical errors in yield statements: error in entering kerosene in gasoline column September, 1935		3,024	
errors in computing interplant transfers			
February, 1934		10	
July, 1934		966	4,000
			78,140,756
Less			
Inventory, December 31, 1936		2,057,370	
Gasoline blended with other products, February, 1935		8,862	2,066,232
Sales, after deducting purchases			76,074,526

5826 DEFENSE EXHIBIT NO. 930.

5827 It Is Hereby Stipulated that James D. Miller, if called as a witness in the above entitled action, would testify that the quantities of gasoline manufactured and sold by Black Gold Refining Company, of Oklahoma City, Oklahoma by months from January 1, 1934 to December 31, 1936 inclusive, are as set forth in Exhibit A hereto annexed.

As so stipulated, said figures are received in evidence in the above entitled action without objection.

5828

EXHIBIT A.

Black Gold Refining Company.

	Gasoline Production (In Gallons)	Gasoline Sales
1934		
January	639,741	732,848
February	557,759	502,222
March	695,671	645,952
April	688,818	707,452
May	772,679	799,228
June	724,341	777,995
July	761,388	718,061
August	673,826	675,475
September	670,369	691,754
October	547,186	507,079
November	657,293	648,838
December	485,720	474,728
Total 1934	7,874,791	7,881,632
1935		
January	437,064	421,421
February	411,221	398,897
March	402,229	427,189
April	270,849	368,447
May	447,594	387,432
June	571,692	524,282
July	716,846	699,413
August	785,568	786,763
September	818,518	820,571
October	822,760	678,122
November	827,758	817,364
December	683,531	677,492
Total 1935	7,195,630	7,007,213
1936		
January	634,696	805,684
February	630,469	541,493
March	866,409	840,406
April	725,724	797,205
May	918,576	852,427
June	1,020,898	984,133
July	769,592	928,355
August	950,997	728,121
September	1,146,906	1,163,971
October	1,008,051	1,110,578
November	942,111	971,901
December	1,177,837	1,051,873
Total 1936	10,792,266	10,776,147

5829 **DEFENSE EXHIBIT NO. 931.**
5830 **Cosden Petroleum Corporation**
Fort Worth, Texas

	Gasoline Production (In Gallons)	Gasoline Sales
1934		
January	4,782,029	3,900,267
February	3,499,380	3,150,641
March	3,417,606	3,488,780
April	3,686,978	4,265,658
May	5,063,282	5,132,369
June	4,466,508	4,185,828
July	4,900,344	5,466,236
August	5,717,210	4,940,878
September	4,326,602	3,965,129
October	4,762,679	4,652,448
November	2,919,753	3,054,622
December	2,810,984	2,898,316
Total 1934	50,353,355	49,101,172
1935		
January	3,225,989	3,008,293
February	3,936,872	3,529,043
March	4,338,527	3,979,925
April	4,150,067	4,023,179
May	4,214,237	4,496,147
June	4,473,131	4,988,729
July	4,696,238	5,926,378
August	5,521,768	4,961,764
September	4,703,763	4,736,025
October	4,837,648	5,382,031
November	4,413,441	4,538,900
December	4,456,575	4,043,099
Total 1935	52,968,256	53,613,513
1936		
January	4,757,962	3,957,445
February	3,030,262	2,566,490
March	3,183,853	4,084,020
April	4,789,877	5,040,747
May	7,134,180	5,330,742
June	6,768,326	6,798,398
July	7,911,404	8,587,541
August	7,132,326	7,933,385
September	6,558,194	7,257,436
October	6,653,077	6,516,881
November	6,149,010	5,841,363
December	6,436,588	5,667,550
Total 1936	70,505,059	69,581,998

5831
5832

DEFENSE EXHIBIT NO. 932.

Sun Company
Yale, Oklahoma

1934	Gasoline Production (In Gallons)	Gasoline Sales
January	215,139.96	938,545.44
February	659,551.20	641,432.82
March	631,201.62	758,481.78
April	1,465,992.78	905,221.80
May	779,289.42	988,448.16
June	767,189.64	291,338.04
July	844,954.32	973,832.16
August	848,527.68	960,479.94
September	706,305.18	1,146,791.94
October	781,396.98	567,265.02
November	868,042.56	1,142,673.42
December	826,314.72	427,802.34
Total 1934	9,393,906.06	9,742,312.86
1935		
January	741,646.08	719,406.24
February	695,224.32	948,375.12
March	918,716.82	1,014,113.10
April	835,821.00	725,403.84
May	919,524.90	755,575.80
June	905,981.16	947,437.26
July	926,487.66	1,267,098.84
August	1,224,301.68	1,113,645.12
September	911,188.32	1,055,834.64
October	704,269.44	735,522.06
November	848,806.98	597,270.24
December	661,826.34	469,365.54
Total 1935	10,293,794.70	10,349,047.80
1936		
January	722,171.94	537,299.28
February	666,669.36	194,937.12
March	627,879.84	680,153.46
April	558,683.16	892,262.70
May	632,070.60	615,804.42
June	620,270.70	1,003,141.02
July	709,408.56	959,573.16
August	626,040.66	661,654.98
September	885,982.86	859,308.24
October	944,637.12	835,414.86
November	812,382.90	422,184.00
December	713,173.02	677,750.22
Total 1936	8,519,370.72	8,339,483.46

5833 **DEFENSE EXHIBIT NO. 933.**

5834 **RODESSA OIL AND REFINING CORPORATION**

	Gasoline Production		Gasoline Sales	
	Barrels	Gallons	Barrels	Gallons
1935				
October	19,298	810,516	14,838	623,196
November	30,601	1,285,242	24,926	1,046,892
December	29,139	1,223,838	27,367	1,149,414
Total	79,038	3,319,596	67,131	2,819,502
1936				
January	40,910	1,718,220	37,256	1,564,752
February	36,789	1,545,138	30,474	1,279,908
March	43,407	1,823,094	44,643	1,875,006
April	42,776	1,796,592	43,317	1,819,314
May	47,543	1,996,806	53,308	2,238,936
June	49,646	2,085,132	52,272	2,195,424
July	50,013	2,100,546	49,039	2,059,638
August	82,916	3,482,472	80,179	3,367,518
September	66,728	2,802,576	72,930	3,063,060
October	70,648	2,967,216	64,094	2,691,948
November	69,856	2,933,952	74,494	3,128,748
December	63,269	2,657,298	56,000	2,352,000
Total 1936	664,501	27,909,042	658,006	27,636,252

5835 DEFENSE EXHIBITS NOS. 934 AND 935.

NOTE:—Exhibit 934, Deep Rock "Refinery Sales", was identical with the column headed "Gasoline Shipments" on Exhibit 935.

5836

DEEP ROCK OIL CORPORATION
Gasoline Produced from Crude, Casinghead Purchased for Blending and Gasoline Shipments from Refinery

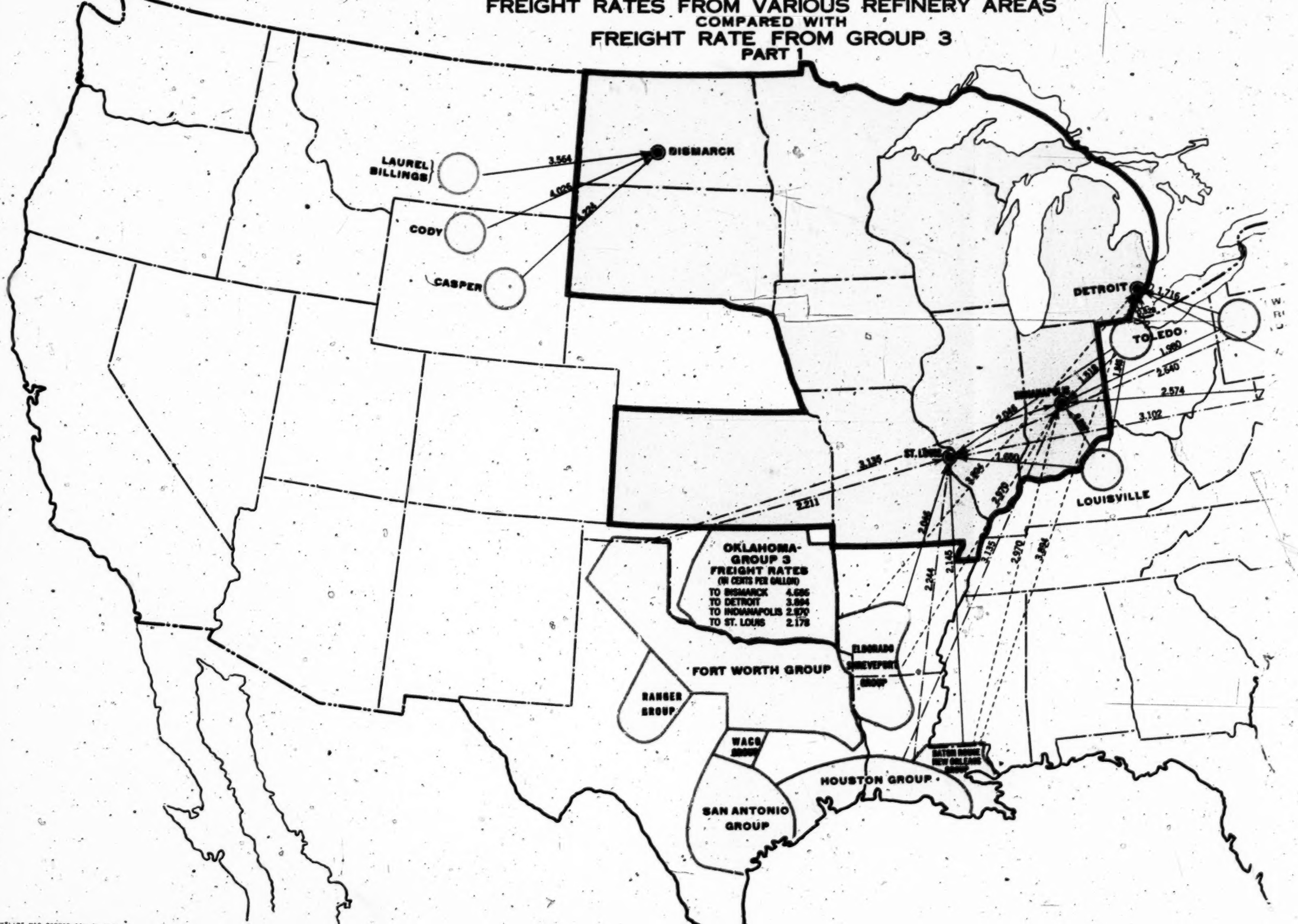
	Gasoline Produced from Crude	Casinghead Purchased for Blending	Gasoline Shipments
1934	(Gallons)	(Gallons)	(Gallons)
January	4,239,243	244,272	4,479,264
February	3,757,200	224,070	3,834,396
March	4,434,800	180,600	4,354,634
April	4,718,766	176,652	4,833,467
May	5,653,268	147,168	5,398,827
June	5,124,036	103,866	5,967,015
July	5,195,750	72,072	5,357,938
August	5,475,080	265,776	6,229,558
September	5,002,633	516,432	6,355,098
October	4,925,007	457,800	7,521,556
November	5,169,713	680,652	5,526,206
December	5,473,414	181,902	4,389,815
Totals	59,168,970	3,251,262	64,247,774
	62,420,232		
1935			
January	5,903,956	187,740	4,155,422
February	2,702,656	231,504	4,520,043
March	5,580,410	511,686	5,194,836
April	5,214,550	67,830	5,954,051
May	5,900,568	125,412	6,428,393
June	5,554,448	101,388	5,327,741
July	5,621,258	277,746	5,698,343
August	5,680,531	326,340	5,590,141
September	5,544,455	305,340	6,050,364
October	5,771,801	526,302	6,356,018
November	5,725,471	492,156	5,160,005
December	5,595,732	488,880	4,561,619
Totals	64,795,836	3,642,324	64,996,976
	68,438,160		

5837

1936			
January	5,392,130	596,778	4,776,118
February	5,115,889	344,088	3,508,818
March	5,761,517	347,298	4,913,601
April	5,466,669	337,134	5,562,947
May	5,835,178	162,582	6,191,460
June	5,519,492	275,478	7,721,202
July	5,901,957	829,164	8,235,902
August	5,546,922	760,830	8,478,691
September	5,325,085	588,798	6,076,347
October	6,076,766	518,826	6,250,523
November	6,017,343	670,740	5,586,076
December	5,693,901	426,048	5,188,577
Totals	67,652,849	5,858,664	72,490,262
	73,511,513		

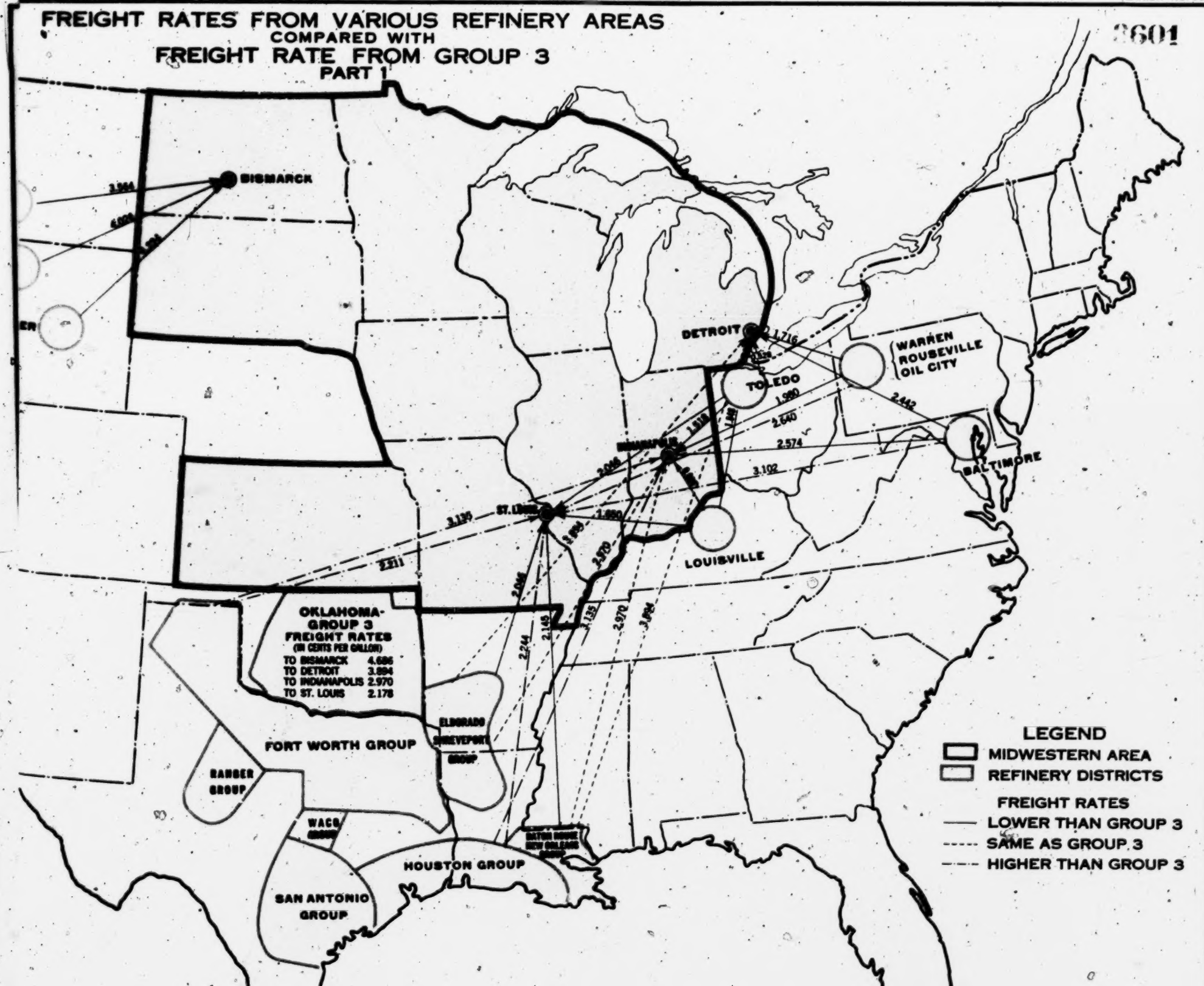
5838 **DEFENSE EXHIBIT NO. 936.**

FREIGHT RATES FROM VARIOUS REFINERY AREAS
COMPARED WITH
FREIGHT RATE FROM GROUP 3
PART 1



FREIGHT RATES FROM VARIOUS REFINERY AREAS COMPARED WITH FREIGHT RATE FROM GROUP 3

PART 1



FREIGHT RATES FROM VARIOUS REFINERY AREAS
COMPARED WITH
FREIGHT RATE FROM GROUP 3
PART 2

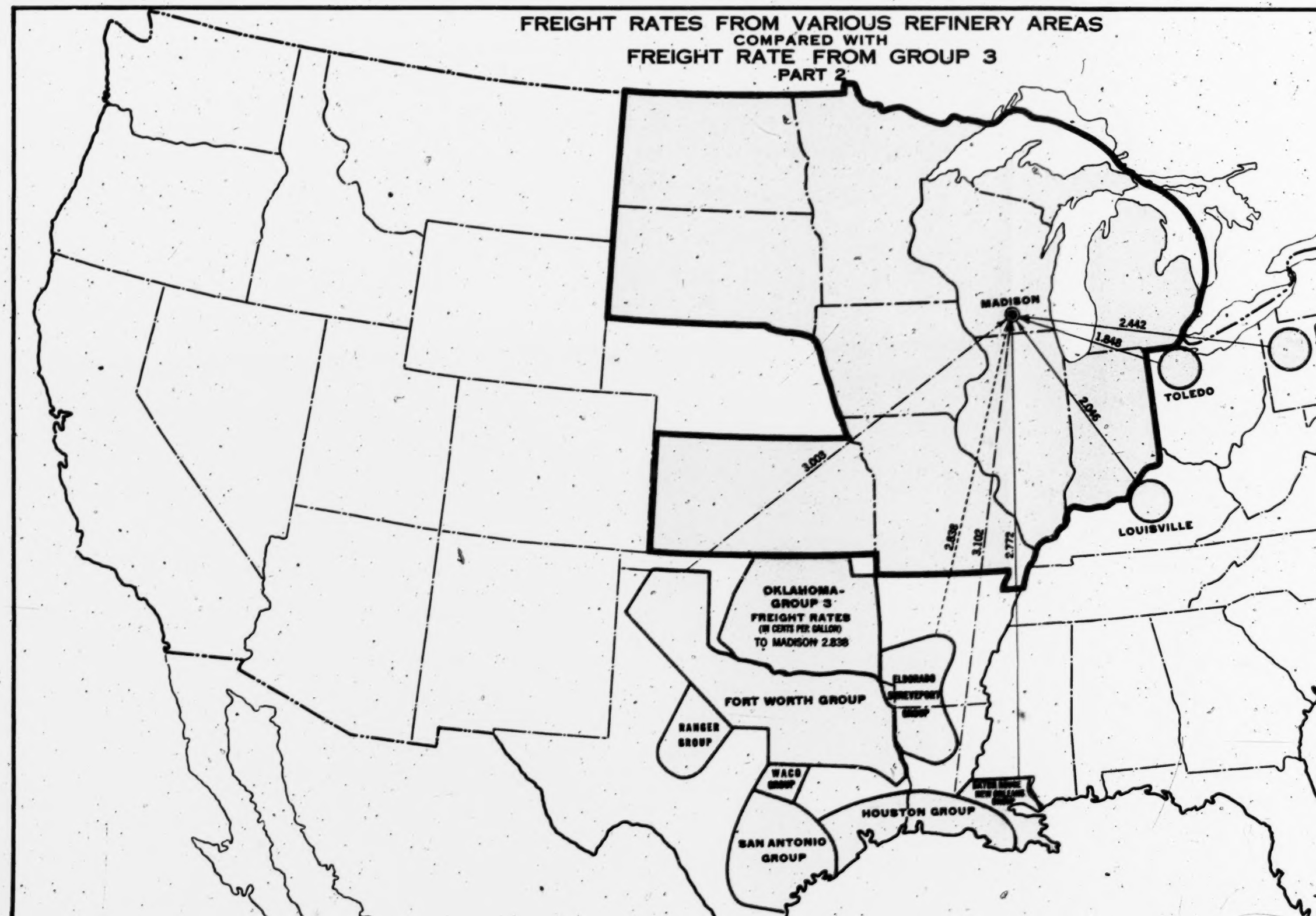
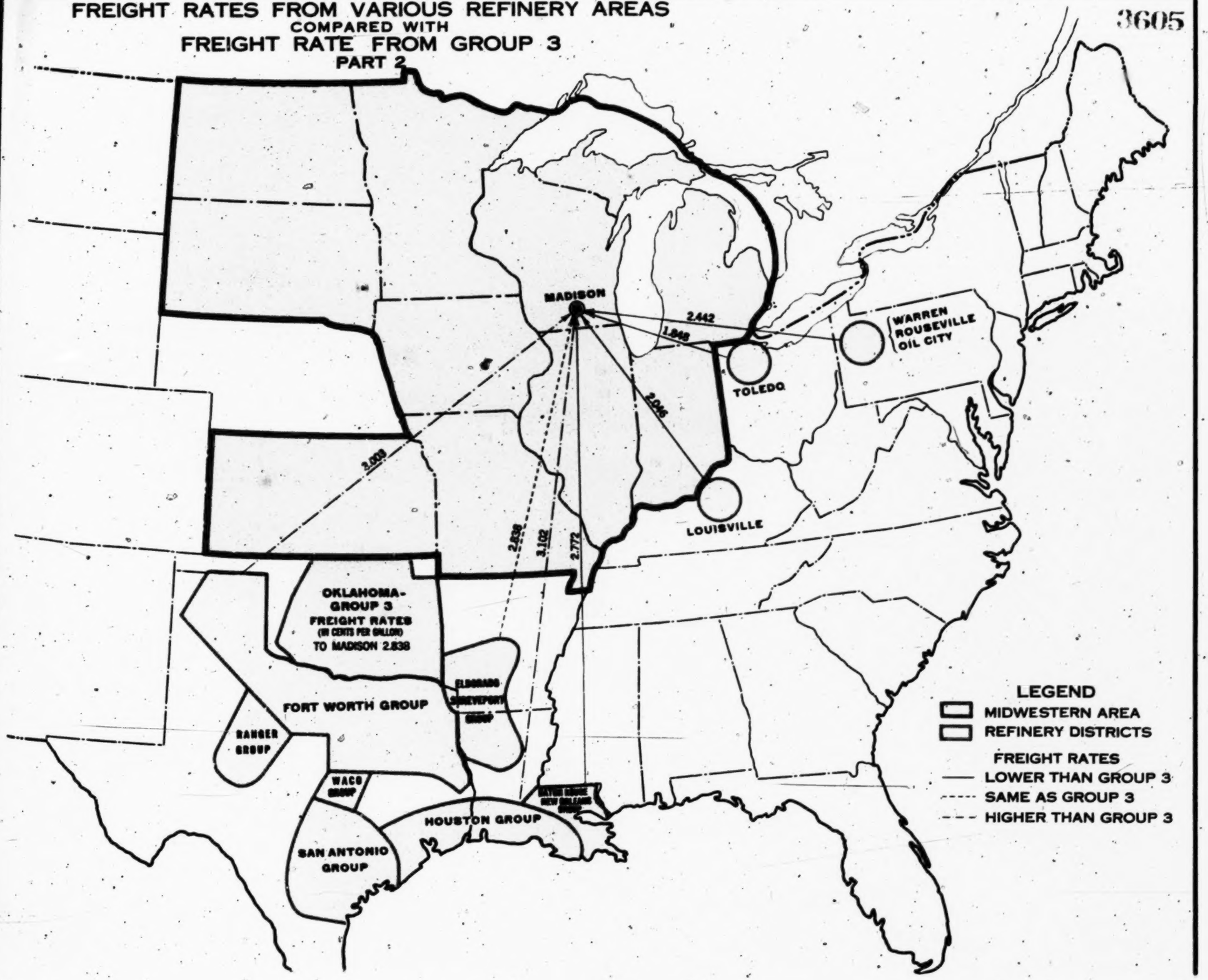


EXHIBIT NO. 937

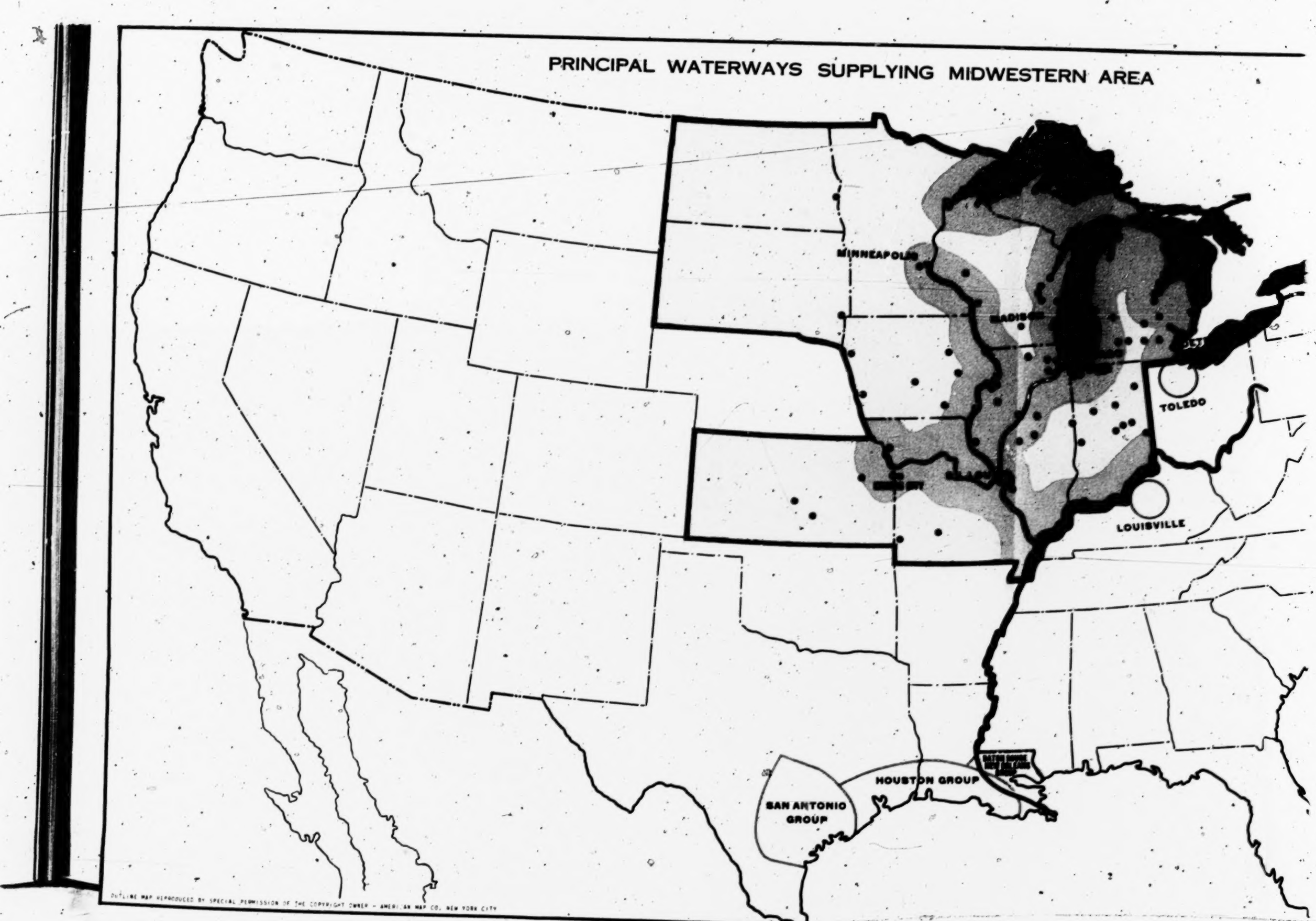
3605

FREIGHT RATES FROM VARIOUS REFINERY AREAS COMPARED WITH FREIGHT RATE FROM GROUP 3

PART 2



PRINCIPAL WATERWAYS SUPPLYING MIDWESTERN AREA

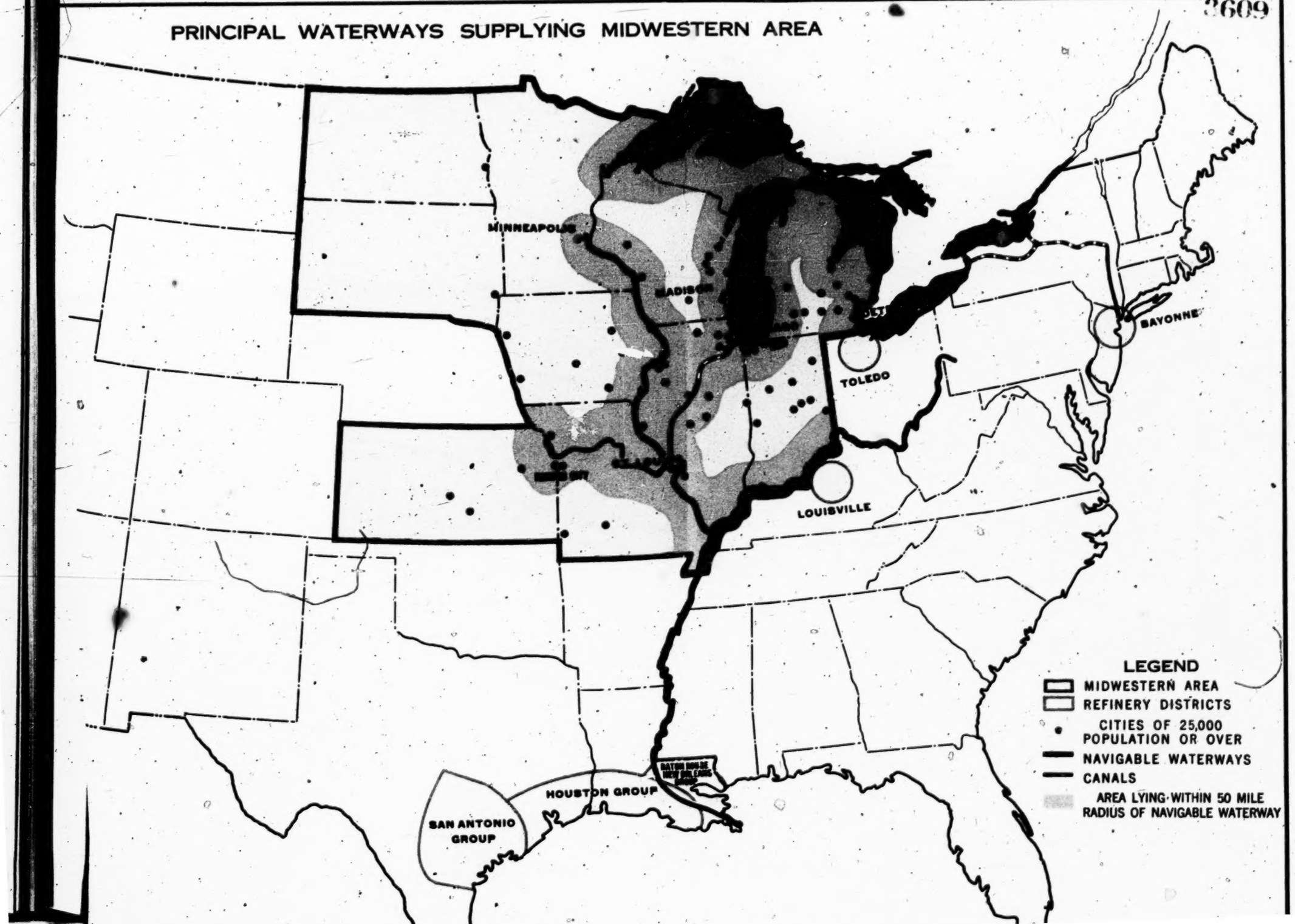


OUTLINE MAP REPRODUCED BY SPECIAL PERMISSION OF THE COPYRIGHT OWNER – AMERICAN MAP CO. NEW YORK CITY

EXHIBIT NO. 938

3609

PRINCIPAL WATERWAYS SUPPLYING MIDWESTERN AREA



5844 DEFENSE EXHIBITS NOS. 939 AND 941.

NOTE:—1935 figures are Exhibit 939.
1936 figures are Exhibit 941.

5845

I.

Refining Capacity of Present Defendant Companies and Subsidiaries in Refining areas Alleged by the Indictment to Supply the Mid-Western Area, as of January 1, 1935 (According to U. S. Bureau of Mines Information Circular No. 6850) and as of January 1, 1936 (According to U. S. Bureau of Mines Information Circular No. 6906).

Refinery	Location	OPERATING 1935 Distillation Capacity	1936 Distillation Capacity	1935 Cracking Capacity	1936 Cracking Capacity
	Arkansas				
	(None)				
	Illinois				
The Globe Oil & Refg. Co...	Lemont.....	12,000	12,000	6,000	6,000
The Shell Petroleum Corp...	Wood River....	38,000	38,000	21,600	20,800
Socony-Vacuum Oil Co.....	E. St. Louis....	5,000	5,000	3,400	3,400
" " " "	" " "				1,200
Standard Oil Co. (Ind.).....	Wood River....	17,000	17,000	14,624	14,700
		72,000	72,000	45,624	46,100

5846

	Indiana				
Empire Oil & Refining Co...	E. Chicago.....	25,000	25,000	15,000	15,000
Shell Petroleum Corp.....	E. Chicago.....	28,500	30,000	22,000	21,000
Sinclair Refining Co.....	E. Chicago.....	40,000	40,000	27,000	27,000
Standard Oil Co. (Ind.).....	Whiting.....	93,000	100,000	67,400	88,500
Wadhams Oil Company.....	E. Chicago.....	6,000	8,000	3,500	8,000
		192,500	203,000	134,900	159,500
	Kansas				
Barnsdall Oil Company.....	Wichita.....	5,000	5,000	1,500	1,500
Globe Oil & Refining Co.....	McPherson.....	10,000	12,000	6,000	6,000
Independent Oil & Gas Co...	Kansas City....	9,000	14,000	3,000	3,000
Philgas Company.....	Kansas City....	9,000	9,000	8,000	8,000
Shell Petroleum Company...	Arkansas City..	20,000	20,000	9,000	9,700
Sinclair Refining Company...	Argentine.....	11,000	11,000	9,000	9,000
" " "	Coffeyville.....	12,000	12,000	9,000	9,000
Skelly Oil Company.....	Eldorado.....	23,000	23,000	15,000	15,000
Socony-Vacuum Oil Co.....	Augusta.....	15,000	15,000	15,000	20,000
Standard Oil Co. (Ind.).....	Neodesha.....	7,500	7,500	8,570	8,570
		121,500	128,500	84,070	89,770

5847

Refinery	Location	1935 Distillation Capacity	1936 Distillation Capacity	1935 Cracking Capacity	1936 Cracking Capacity
	North Louisiana				
Stanolind Oil & Gas Co.	Superior	4,500	4,500	2,000	2,000
	Michigan				
Pure Oil Company	Midland	3,000	3,000		
Socony-Vacuum Oil Co., Inc.	Trenton	10,500	13,000	7,400	10,050
		13,500	16,000	7,400	10,050
	Missouri				
Standard Oil Co. (Ind.)	Sugar Creek	16,500	18,000	16,000	13,500
	Oklahoma				
Barnsdall Oil Company	Barnsdall	5,000		4,000	
Barnsdall Oil Company	Okmulgee	11,000		3,500	
Barnsdall Refining Corp.	Barnsdall		5,000		4,000
Barnsdall Refining Corp.	Okmulgee		11,000		3,500
Continental Oil Company	Ponca City	30,000	30,000	13,000	4,000
Continental Oil Company	Ponca City				9,000
Empire Oil & Refg. Co	Ponca City	12,000	12,000	3,500	1,500
Empire Oil & Ref. Co	Ponca City				2,000
Empire Oil & Refg. Co	Okmulgee	4,000	4,000		

5848

Independent Oil & Gas Co.	Okmulgee	6,000	6,000	3,000	3,000
The Globe Oil & Refg. Co.	Blackwell		8,000		4,000
Mid-Continent Petrol. Corp.	West Tulsa	40,000	40,000	20,000	20,000
The Pure Oil Company	Muskogee	9,000	9,000	4,700	3,500
The Pure Oil Company	Muskogee				1,200
Sinclair Refining Co	Sand Springs	8,000	8,000	2,000	2,000
Tide Water Oil Co. (Okla.)	Drumright	15,000		7,000	
		140,000	133,000	60,700	57,700
	East Texas				
Sinclair Refining Co	Gladewater	2,500	2,500		
	Panhandle & North Texas				
Continental Oil Company	Wichita Falls	5,000	5,000	2,300	2,300
Magnolia Petroleum Co.	Fort Worth	6,000	7,000	3,500	4,550
Phillips Petroleum Co.	Borger	50,000	50,000	48,000	48,000
Sinclair Refining Co	Fort Worth	4,000	4,000	3,000	3,000
		65,000	66,000	56,800	57,850
	West Texas (None)				

5849

Refinery	Location	1935 Distillation Capacity	1936 Distillation Capacity	1935 Cracking Capacity	1936 Cracking Capacity
		SHUT-DOWN			
	Arkansas				
	(None)				
	Illinois				
Shell Petroleum Corp.	Wood River			3,850	2,400
Socony-Vacuum Oil Co., Inc.	Wood River	5,500	5,500	2,000	2,000
Standard Oil Co. (Ind.)	Wood River			3,656	3,300
		5,500	5,500	9,506	7,700
	Indiana				
Sinclair Refining Co	E. Chicago			1,500	1,500
Standard Oil Co. (Ind.)	Whiting			17,600	5,000
Wadhams Oil Co	East Chicago				1,500
				19,100	8,000
	Kansas				
Skelly Oil Company	Eldorado			13,000	13,000
	North Louisiana				
	(None)				

5850

	Michigan				
Standard Oil Co. (Ind.)	Milwaukee	1,500			
	Missouri				
Standard Oil Co. (Ind.)	Sugar Creek			7,000	7,000
	Oklahoma				
Barnsdall	Okmulgee			1,000	
Barnsdall Refining Co.	Okmulgee				1,000
Continental Oil Co	Sapulpa	4,000		750	
Empire Oil & Refg. Co	Cushing	5,000			
Empire Oil & Refg. Co	Okmulgee			1,000	1,000
Empire Oil & Refg. Co	Ponca City			1,000	1,000
The Globe Oil & Refg. Co	Blackwell	8,000		4,000	
Sinclair Refining Co.	West Tulsa	4,500		1,500	
Sinclair Refining Co	Sand Springs			2,000	2,000
		21,500		11,250	5,000
	North and Panhandle Texas				
Empire Oil & Refg. Co	Gainesville	5,000	5,000	2,000	2,000
	East Texas				
	(None)				

5851 II.

Refinery capacity of alleged co-conspirator Independents' Refineries in refining areas alleged by the indictment to supply the mid-western area, as of January 1, 1935 (according to the United States Bureau of Mines Information Circular No. 6850 and as of January 1, 1936 (according to the United States Bureau of Mines Information Circular 6906.

OPERATING

Refinery	Location	1935 Distillation Capacity	1936 Distillation Capacity	1935 Cracking Capacity	1936 Cracking Capacity
	Kansas				
The Dickey Refining Co.	McPherson	3,500	3,500	1,500	2,000
	Oklahoma				
Bell Oil & Gas Co.	Grandfield	4,500	4,500	2,000	2,000
Champlin Refining Co.	Enid	15,000	16,000	3,000	3,500
Cushing Refg. & Gasoline Co.	Cushing	4,500	4,500	2,200	2,200
" " " " "	Blackwell	1,700	1,700		
Eason Oil Co.	Enid	4,000	4,000		2,000
Omar Refining Co.	Garber		4,000		2,500
Rock Island Refg. Co.	Beckett	6,500	6,500	3,500	3,500
H. F. Wilcox Oil & Gas Co.	Bristow	6,000	5,000	1,100	1,500
		42,200	46,200	11,800	17,200

5852

	East Texas**				
Arrow Refg. & Producing Co. (1)	Overton	5,000			
*Cascade Refining Co.	Reeds Switch		2,000		1,000
*Chief Refining Co.	Gladewater		2,000		
East Texas Refining Co.	Long View	10,000	10,000	10,000	10,000
Gilliland Refining Co.	Gladewater	4,000		1,000	
*Gilliland Refining Co.	"		4,500		1,500
*Gilliland Refining Co.	Overton		5,250		2,000
Hurricane Petroleum Corp.	Overton		5,000		3,000
La Prea Refining Co.	Kilgore	2,500			
Lone Star Refining Co.	Gladewater	2,000		1,000	
*Matthews Refining Co.	Gladewater		1,100		
*Ocean Petroleum Co.	Kilgore		3,000		1,000
Oil Refineries, Inc. (2)	Overton	4,500		2,500	

**Because many East Texas refineries discontinued operating after the Connally Act became effective only those refineries are included which were shown to be in existence by the Texas Railroad Commission's records of December 1, 1935, as reported by the Oil Price Handbook for 1935.

(1) Shown on Texas Railroad Commission records of December 1, 1935 as Gilliland Refining Co., of Overton.

* Not reporting to Bureau of Mines as of January 1, 1936.

(2) Shown on the Texas Railroad Commission records of December 1, 1935, as the Hurricane Petroleum Corporation.

5853

Refinery	Location	1935 Distillation Capacity	1936 Distillation Capacity	1935 Cracking Capacity	1936 Cracking Capacity
	(East Texas—Cont'd)				
Premier Oil Refining Co. of Texas	Willow Springs		4,500		
Solvex Refineries, Inc.	Gladewater		5,000		2,500
Southport Refining Co.	Kilgore	4,000		2,000	
*Southport Refining Co.	Kilgore		5,000		2,000
Texas Oil Products Co.	Gladewater	3,500		1,500	
*Texas Oil Products Co.	Gladewater		3,000		2,000
Trio Refining Co.	Arp		2,000		1,250
Tyreco Refg. Co. No. 1	Arp	2,500			
Tyreco Refg. Co. No. 2	Overton	3,000		3,000	
*Tyler Texas Refining Co. (McMurray No. 2)	Tyler		10,000		6,000
Utah Refining Co.	Kilgore	2,000			
		43,000	62,350	21,000	32,250

* Not reporting to Bureau of Mines as of January 1, 1936.

5854

	Panhandle & North Texas				
Danciger Oil & Refineries, Inc.	Pampa	6,000	6,000	4,000	4,000
Olney Oil & Refg. Co.	Olney	3,000	3,000	1,500	1,500
Panhandle Refining Co.	Kings Mill	2,000	2,500		
Panhandle Refining Co.	Wichita Falls	4,200	4,200	1,700	2,000
Shamrock Oil & Gas Co.	Lefors	1,200	1,500		
Shamrock Oil & Gas Co.	Sunray	2,000	2,500		
Taxman Refining Co.	Wichita Falls		3,000		1,250
Waggoner Refining Co. Inc.	Electra	3,500	6,000		5,000
		21,900	28,700	7,200	13,750
	West Texas				
Panhandle Refining Co.	Lueders		900		

5855

	SHUT-DOWN				
	East Texas**				
Century Refining Co.	Friars Switch	2,500			
*Century Refining Co.	Friars Switch		2,500		
Chief Refining Co.	Gladewater	1,200			
Danciger Oil & Refineries, Inc.	Longview	10,000	12,000		2,000
*Dominant Refining Co.	Kilgore		4,000		
*Dominant Refining Co.	Reeds Switch		2,000		
McMurray Refining Co.	Arp	4,000		2,000	

Refinery	Location	1935 Distillation Capacity	1936 Distillation Capacity	1935 Cracking Capacity	1936 Cracking Capacity
*McMurray Refining Co.	Arp		4,000		2,000
Ocean Refining Co.	Kilgore	3,000			
*Ocean Petroleum Co.	Kilgore		2,000		
Trio Refining Co.	Arp	2,000		2,000	
Tyler Texas Producing & Refining Co.	Tyler	15,000		6,000	
*Utah Refining Co.	Kilgore		2,000		
Wabash Refining Co.	Gladewater	1,000			
*Wabash Refining Co.	Gladewater		1,000		
		38,700	29,500	10,000	4,000

**Because many East Texas refineries discontinued operating after the Connally Act became effective only those refineries are included which were shown to be in existence by the Texas Railroad Commission's records of December 1, 1935, as reported by the Oil Price Handbook for 1935.

* Not reporting to Bureau of Mines as of January 1, 1936.

5856

	Oklahoma				
Omar Refg. Co.	Garber	4,000		2,500	
	Panhandle & North Texas				
J. J. & M. Taxman Refg. Co.	Wichita Falls	3,500		1,500	

5857

III.

Refining Capacity of Independent Refineries Not Alleged to be Controlled by Defendants or Co-Conspirators in the Refining Areas Alleged by the Indictment to Supply as of January 1, 1935 (According to the United States Bureau of Mines Information Circular 6850) and as of January 1, 1936 (According to the United States Bureau of Mines Information Circular 6906).

OPERATING

Refinery	Location	1935 Distillation Capacity	1936 Distillation Capacity	1935 Cracking Capacity	1936 Cracking Capacity
	Arkansas				
Henry H. Cross Co.	Smackover	10,000	6,000		1,500
Lion Oil Refining Co.	El Dorado	11,000	13,000	4,500	4,500
McMillan Petroleum Co.	Norphlet	2,500	2,500		
Root Refining Co.	El Dorado	12,000	12,000	3,500	3,000
Stephens Refining Co.	Stephens	750	700		
		36,250	34,200	8,000	9,000
	Illinois				
Henry H. Cross Co., Inc.	Colmar		1,000		
Henry H. Cross Co., Inc.	Dupo	1,000	1,000		
Henry H. Cross Co., Inc.	Joliet	2,000	2,000		
		3,000	4,000		

5858

Refinery	Location	1935 Distillation Capacity	1936 Distillation Capacity	1935 Cracking Capacity	1936 Cracking Capacity
Kansas					
Cusco Oil & Refining Co....	Chase.....		3,000		
The Derby Oil Co.....	Wichita.....	8,000	8,000	2,500	2,500
The El Dorado Refg. Co....	El Dorado.....	4,500	5,000	2,000	2,000
Falcon Refining Co.....	Great Bend.....	800	800		
Kanotex Refining Co.....	Arkansas City..	12,000	12,000	4,500	4,500
The Petroleum Products Co.	Chanute.....	800	800		
Vickers Petroleum Co.....	Potwin.....	4,000	4,000	3,500	3,500
		30,100	33,600	12,500	12,500
North Louisiana					
Atlas Pipe Line Corp.....	Shreveport.....		12,500		6,000
Griswold Refineries, Inc....	Shreveport.....	2,000	2,000	1,000	1,000
		2,000	14,500	1,000	7,000

5859

Michigan					
Crystal Refining Co.....	Carson City....		2,000		
Kent Refining Co.....	Dewey.....	750	750		
Keystone Oil Refg. Co.....	Detroit.....	2,000	1,500		
Midwest Refineries, Inc.....	Alma.....	2,000	3,000		
Naph-Sol Refining Co.....	Muskegon.....	2,500	2,500		1,500
Old Dutch Refining Co.....	Muskegon.....	3,000	3,000		
Peerless Oil Company.....	Saginaw.....	800			
Roosevelt Oil Corp.....	Mt. Pleasant....	6,000	6,000		
Superior Oil Corp.....	Elsie.....	1,000	1,000		
Sweet Oil Refining Co.....	Wyman.....	600	1,800		
		18,650	21,550		1,500
Oklahoma					
Anderson-Prichard Refg. Co.	Cyril.....	6,000	6,000	3,500	3,500
Black-Gold Refining Co.....	Oklahoma.....	2,000	2,000	600	600
Deep Rock Oil Corp.....	Cushing.....	10,000	10,000	4,000	4,000
Johnson Oil Refining Co....	Cleveland.....	6,000	5,500	2,000	2,000
Major Petroleum Products Co.....	Oklahoma City.	1,500			
Monarch Refining Co.....	Oklahoma City.	1,000	2,000		

5860

Refinery	Location	1935 Distillation Capacity	1936 Distillation Capacity	1935 Cracking Capacity	1936 Cracking Capacity
	Oklahoma (Cont'd)				
Sunray Oil Co.	Allen	6,000	6,000	1,600	1,600
Triangle Produce & Refg. Co.	Oklahoma City		1,400		
Wirt Franklin Petroleum Co.	Ardmore	4,000			
		36,500	32,900	11,700	11,700
	East Texas**				
Acme Refining Co.	Gladewater	1,250			
Beacon Oil & Refining Co.	Henderson	4,000			
*Beacon Oil & Refining Co.	Henderson		4,500		
*Elk Refining Co. (Western States No. 1)	Overton		3,000		
Johnson Refining Co.	Kilgore	1,200			
Lake Refining Co.	Gladewater	2,000			
McKain Refining Co.	Gladewater	1,500			
*Swastika Refining Co.	Kilgore		2,200		
		9,950	9,700		

**Because many East Texas refineries discontinued operating after the Connally Act became effective only those refineries are included which were shown to be in existence by the Texas Railroad Commission's records of December 1, 1935, as reported by the Oil Price Handbook for 1935.

* Not reporting to Bureau of Mines as of January 1, 1936.

5861

	Panhandle & North Texas				
Atlantic Pacific & Gulf Ref. Co.	Wichita Falls	5,000			
Archer Refining Corp.	Megargel	1,000			
Falls Refining Co.	Wichita Falls	2,500			
LaSalle Petroleum Co.	Burkburnett	3,500	3,500		
Pilot Point Refining Co.	Pilot Point	500			
Southland Refining Co.	Olney				2,500
Star Refining & Producing Co.	Ft. Worth	1,000			
Texas Pacific Coal & Oil Co.	Ft. Worth	3,000		700	
		16,500	3,500	700	2,500
	West Texas				
Baird Ref. Co.	Baird		1,500	1,500	
Col Tex Refining Co.	Colorado	12,500	12,500	3,500	3,500
Cosden Oil Corp.	Big Spring	12,500	10,000	12,500	10,000
The Exchange Petroleum Corp.	Albany	500	800		
Howard County Refining Co.	Big Spring		2,000		
Moutray Oil Co.	Hawley	500	650		

5862 Refinery	Location	1935 Distillation Capacity	1936 Distillation Capacity	1935 Cracking Capacity	1936 Cracking Capacity
West Texas (Cont'd)					
Onyx Refining Corp.	Abiline		1,200		
Plainview Refining Co.	Plainview	1,000			
Texas Pacific Coal & Oil Co.	Caddo	1,000	1,000		
West Texas Refining Co.	Pecos		500		
Wickett Refining Co.	Wickett	2,500	2,500		
		30,500	32,650	17,500	13,500
5863 **SHUT-DOWN**					
Arkansas					
Henry H. Cross Co.	Smackover			1,500	
Houston Oil Co. of Texas	Camden	5,500	5,500	2,000	2,000
Ouachita Valley Refg. Co.	El Dorado	2,000	2,000		750
Root Refg. Co.	El Dorado			1,500	
Root Petroleum Co.	El Dorado				1,500
Simms Oil Co.	Smackover	3,000	3,000	2,700	2,000
		10,500	10,500	7,700	6,250
Illinois					
Peerless Oil Co.	Blue Island	3,000	3,000		
Kansas					
Golden Rule Refining Co.	Wichita	1,000		1,200	
United Oil & Refining Co.	Hutchinson	3,000	2,500	500	
		4,000	2,500	1,700	
North Louisiana					
Spartan Refg. Co., Inc.	Shreveport	12,000		6,000	
Oil Refineries Inc.	Haughton		1,000		
		12,000	1,000	6,000	
5864					
Michigan					
Henry H. Cross Co., Inc.	Muskegon	1,000			
Missouri					
Altitude Petroleum Corp. of Missouri	Kansas City	4,000		2,500	
Joplin Ref. Co.	Joplin	1,500	1,500	1,000	1,000
		5,500	1,500	3,500	1,000
Oklahoma					
Associated Oil Company	Allen	8,000	8,000	2,000	2,000
Beckett Co.	Duncan		2,000		
Century Petroleum Co.	Oklahoma City	2,500	2,500		
Century Petroleum Co.	West Tulsa	2,500	2,000		
Crescent Refining Co.	Holdenville	1,000	1,000		
The Gilmer Oil Co.	Ringling	1,500			
Government Refining Co.	Oklahoma City	2,600	2,600		
Government Refining Co.	Seminole	800	800		
Guthrie Refining Co.	Guthrie	500			
Hanger Ref. Co.	Oklahoma City	500	500		
J. C. Huckins	Earlsboro	500			

5865

Refinery	Location	1935 Distillation Capacity	1936 Distillation Capacity	1935 Cracking Capacity	1936 Cracking Capacity
	Oklahoma (Cont'd)				
Illinois Oil Co	Cushing	3,000	3,000	1,500	1,500
Oklahoma City Ref. Co	Oklahoma City	2,000	2,000		
Triangle Ref. Co	Oklahoma City	800			
Western Oil Co	Beckett	1,500		1,500	
Wirt Franklin Petroleum Corp	Ardmore		4,000		
Yale Oil Co	Yale	2,000	2,000		
York Refining Co	Oklahoma City	2,000	2,000		
		31,700	32,400	5,000	3,500
	East Texas**				
Acme	Gladewater		1,250		
*Ardell Refining Co	Gladewater		1,000		
Artex Ref. Co. No. 1	Arp	2,000			
Artex Ref. Co. No. 2	Camp Switch	4,250			
*Central Refining Co	Gladewater		1,400		

**Because many East Texas Refineries discontinued operating after the Connally Act became effective only those refineries are included which were shown to be in existence by the Texas Railroad Commission's records of December 1, 1935 as reported by the Oil Price Handbook of 1935.

*Not reporting to Bureau of Mines as of January 1, 1936.

5866

Crystal Refining Co	Kilgore	1,000			
Elk Refining Co	Kilgore	4,000			
Gilmer Refining Co	Gladewater	800			
Gregg Oil Products Co	Gladewater	1,500			
Hub Oil Refining Co	Reeds Switch	3,000			
*Hub Oil Refining Co	Reeds Switch		2,000		
Hunter & Knox Ref. Co	Reeds Switch	750			
Ideal Refining Co	Gladewater	750			
Jackson Ref. Co	Gladewater	1,750			
*Jackson Ref. Co	"		1,200		
*Johnson Refining Co	Kilgore		1,000		
*La Petite Refining Co	Joinerville		800		
*McKain Fuel Co. (Ward) (1)	Gladewater		1,000		
Mid-West Refining Co	Overton	3,000			
*Outdoor Refining Co	Kilgore		900		
*Overton Refining Co	Overton		3,500		

* Not reporting to Bureau of Mines as of January 1, 1936.

(1)Shown on the Texas Railroad Commission's records of December 1, 1935 as the Overton Refining Co.

5867

Refinery	Location	1935 Distillation Capacity	1936 Distillation Capacity	1935 Cracking Capacity	1936 Cracking Capacity
	East Texas (Cont'd)				
Ozoso Refining Co	Friars Switch	7,000			
*Ozoso Refining Co	" "		7,500		
*Ozoso Refining Co	Overton		10,000		
Panama Refining Co	Kilgore	3,000			
*Panama Refining Co	Kilgore		3,000		
Pelican Refining Co	Gladewater	1,000			
*Pelican Refining Co	"		2,200		
Pennant Refining Co	Kilgore	1,500			
*Producers Oil & Refg. Co.	Kilgore		3,000		
Roco Refining Co. (2)	"	2,000			
Rusk Oil & Refining Co	Overton		4,000		
Stag Refining Co	Kilgore	1,200			
*Stag Refining Co	"		2,000		
*State Refining Co. (Bradley)	Kilgore		800		
Supreme Refining Co	Gladewater	1,200			
*Supreme Refining Co	"		1,000		
Union Refining Co	Camp Switch	3,000			
*Union Refining Co	Camp Switch		2,500		

* Not reporting to Bureau of Mines as of January 1, 1936.
(2)Shown on the Texas Railroad Commission's records of December 1, 1935 as the Admiral Refining Co.

5868

Upshur Refining Co	Gladewater	1,000			
*Upshur Refining Co	"		1,000		
		43,700	51,050		
	Panhandle & North Texas				
Archer Refining Corp	Megargel		1,000		
Atlantic Pacific & Gulf Refining Co	Wichita Falls		5,000	1,800	1,800
MacMillan Petroleum Corp.	Borger	7,000.	7,800		
Pilot Point Refining Co	Pilot Point		700		
Primrose Refining Co	Wichita Falls	2,500	2,500		
Simms Oil Co	West Dallas	4,000	4,000	3,000	3,200
Southland Refining Co	Megargel		1,000		
Southland Refining Co	Olney	650	650		
Star Refining & Producing Co.	Fort Worth		1,000		
		14,150	23,350	4,500	4,700

5869

Refinery	Location	1935 Distillation Capacity	1936 Distillation Capacity	1935 Cracking Capacity	1936 Cracking Capacity
	West Texas				
Active Oil Corp	Arno	1,500	1,500		
Baird Refining Co	Baird	1,500			
Bluebonnet Oil Refg. Co	Wickett	5,000	5,000		
Great West Refining Co	Big Spring	7,500		500	
Nolting Refining Company	Sweetwater	750	750		
Paramount Refineries, Inc	San Angelo		2,000		
Plainview Refg. Co	Plainview		1,000		
Richardson Refining Co	Big Spring	6,000	6,000	4,400	4,400
Superior Refining Co	Tiffin	7,000	700		
Tonkawa Petroleum Corp	Tyote	1,200			
West Texas Refining Co	Pecos	5,000		5,000	
		35,450	16,950	9,900	4,400

5870

IV.

Refinery Capacity of Refineries of Major Companies other than Present Defendants or Dismissed Defendants in the Refining Areas Alleged by the Indictment to Supply the Mid-Western Area as of January 1, 1935 (According to the U. S. Bureau of Mines Information Circular 6850) and as of January 1, 1936 (According to the U. S. Bureau of Mines Information Circular 6906).

OPERATING

Refinery	Location	1935 Distillation Capacity	1936 Distillation Capacity	1935 Cracking Capacity	1936 Cracking Capacity
	Illinois				
Indian Refining Co	Lawrenceville	16,000		6,300	
Indiana Refg. Co., Inc	Lawrenceville		16,000		6,900
Lincoln Oil Refining Co	Robinson	10,000		12,000	
Ohio Oil Co	Robinson		10,000		12,000
Texas Company	Lockport	20,000	20,000	16,400	17,000
		46,000	46,000	34,700	35,900
	Kansas				
National Refg. Co	Coffeyville	8,000	8,000	4,000	4,000
	North Louisiana				
Louisiana Oil Refg. Co	Bossier City	23,000	23,000	22,000	22,000
Texas Company	Shreveport	7,000	7,000		
		30,000	30,000	22,000	22,000

5871

Refinery	Location	1935 Distillation Capacity	1936 Distillation Capacity	1935 Cracking Capacity	1936 Cracking Capacity
	Oklahoma				
Marathon Oil Co.	Bristow	5,000	5,000	1,500	1,500
Sun Company (Del.)	Yale	5,000	5,000		
Texas Co.	West Tulsa	14,000	14,000	13,600	14,600
Tide Water Oil Co.	Drumright	15,000	15,000	7,000	7,000
		39,000	39,000	22,000	23,100
	Panhandle and North Texas				
Gulf Refining Co.	Ft. Worth	6,000	6,000	6,000	6,000
Marathon Oil Co.	Ft. Worth	5,000	5,000	1,500	1,500
Texas Co.	Amarillo	4,000	4,000	2,700	2,700
Texas Co.	West Dallas	16,000	16,000	11,000	11,000
		31,000	31,000	21,200	21,200
	West Texas				
Gulf Refining Co.	Sweet Water	5,000	5,000	4,000	4,000

5872

	SHUT-DOWN				
	Illinois				
Indian Refining Co.	Lawrenceville			1,000	
	North Louisiana				
Louisiana Oil Refg. Co.	Bossier City	3,000			
Louisiana Oil Refg. Co.	Gas Center	15,000	15,000		
		18,000	15,000		

5873 DEFENSE EXHIBITS NOS. 940 AND 942.

OTE:—1935 figures are Exhibit 940.
1936 figures are Exhibit 942.

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I.

efinery capacity controlled by defendants in area surrounding the Standard of Indiana territory as of January 1, 1935, according to United States Bureau of Mines Information Circular 6850.

aily refinery capacity of defendant companies subsidiaries and dismissed defendants in area surrounding the Standard of Indiana territory as of January 1, 1936, according to United States bureau of Mines Information Circular 6906.

Refinery	Location	OPERATING 1935 Distillation Capacity	1936 Distillation Capacity	1935 Cracking Capacity	1936 Cracking Capacity
	Kentucky				
	None				
	Louisiana Gulf Coast				
an-American Pet. Corp.					
(Standard Oil Co. of Ind.).	Destrehan.....	16,000	16,000		
ell Petroleum Corp.....	Norco.....	21,000	21,000	10,000	10,000
		37,000	37,000	10,000	10,000
	Montana				
ntinental Oil Co.....	Lewistown.....	1,500	1,500		
75					
	Ohio				
e Pure Oil Co.....	Heath.....	10,500	10,000	4,000	4,000
" " "	"			4,000	4,000
" " "	Toledo.....	9,500	9,500	5,000	5,000
" " "	"			3,000	3,000
		20,000	19,500	16,000	16,000
	Western Pennsylvania (Oil City-Warren-Bradford Area)				
w Levick Co	Titusville.....	3,000	3,000		
Cities Service)					
	Pittsburgh Area				
	None				
	Texas (Gulf Coast)				
nolia Petroleum Co.....	Beaumont.....	80,000	80,000	55,000	36,000
locony-Vacuum)					
-American Rfg. Corp....	Texas City.....	25,000	25,000	25,000	25,000
Standard Oil Co. of Ind.)					
Pure Oil Co.....	Nederland.....	27,000	27,000	12,000	15,450

5876

Refinery	Location	1935 Distillation Capacity	1936 Distillation Capacity	1935 Cracking Capacity	1936 Cracking Capacity
	Texas (Cont'd)				
Shell Petroleum Corp.	Houston	56,000	42,000	30,000	21,000
Sinclair Refining Co.	"	44,000	44,000	44,000	44,000
		232,000	218,000	166,000	141,450
	Central Texas				
Magnolia Petroleum Co. (Socony-Vacuum)	Corsicana	4,000	4,000		
" " "	Luling	5,000	6,000	3,750	4,200
		9,000	10,000	3,750	4,200
	West Virginia				
The Pure Oil Co.	Cabin Creek Jct.	3,500	2,000	750	750
	Wyoming				
Continental Oil Co.	Glen Rock	2,500	2,500	1,800	1,800
Sinclair Refining Co.	Parco	8,000	8,000	4,000	4,000
Socony-Vacuum Oil Co. Inc.	Casper	5,000		2,500	
Standard Oil Co. (Ind.)	Casper	12,600	12,600	6,550	6,400
" " " "	Gray Bull	5,000	4,000	2,500	1,900
White Eagle (Socony-Vacuum)	Casper		5,000		2,500
		33,100	32,000	17,350	16,600

5877

II.

SHUT DOWN

	Texas (Gulf Coast)				
Magnolia Petroleum Co.	Magpetco	10,000	10,000		
Sinclair Refining Co.	Houston			2,000	2,000
		10,000	10,000	2,000	2,000

5878

Capacities of refineries not controlled by defendants or alleged co-conspirators in certain areas surrounding Standard of Indiana territory as of January 1, 1935 (according to United States Bureau of Mines Information Circular 6850) and as of January 1, 1936 (according to United States Bureau of Mines Information Circular 6906).

I

OPERATING

Refinery	Location	1935 Distillation Capacity	1936 Distillation Capacity	1935 Cracking Capacity	1936 Cracking Capacity
	Kentucky Independents				
Aetna Oil Service, Inc.	Louisville	2,000	2,500	800	600
Ashland Refg. Co.	Catlettsburg	4,700	4,700	2,200	2,200
Bowling Green Refg. Co.	Memphis Jct.	1,500	2,000		
Louisville Refg. Co.	Louisville	4,500	4,500	2,200	2,200
Simrall Refg. Co.	Horse Cave		2,000		
South Kentucky Pipe Line Co.	Somerset	300	400		
Stoll Oil Refg. Co., Inc.	Louisville	2,000	2,400	600	
		15,000	19,100	5,800	5,000

5879

	Kentucky Non-Defendant Majors				
Latonia Refg. Corp. (Standard Oil of Ohio)	Latonia	8,000	8,000	5,000	5,000
The Texas Co.	Pryse	2,500	2,500	2,000	2,000
		10,500	10,500	7,000	7,000
		State total	39,600		12,000
	Louisiana Gulf Coast Independents				
Chalmette Petroleum Corp.	Chalmette	7,000	5,000	4,000	3,500
	Non-Defendant Majors				
Standard Oil of Louisiana	Baton Rouge	90,000	90,000		7,400
* * * *	Baton Rouge			34,000	38,500
* * * *	Baton Rouge				3,500
		90,000	90,000	34,000	49,400
		State total	95,000		52,900

5880

Refinery	Location	1935 Distillation Capacity	1936 Distillation Capacity	1935 Cracking Capacity	1936 Cracking Capacity
	Montana				
	Independents				
Arro Oil and Refg. Co.	West Lewistown		1,500		800
B & M Refg. Co.	Roundup	300			
Big West Oil Co. of Mont.	Kevin	800	1,200	500	500
Deloraine Refg. Co.	Oilmont	250			
Conrad Refg. Co.	Conrad		1,000		
Cut Bank Refining Co.	Cut Bank		350		
Hart Refineries	Missoula	300	300		
Hart Refineries	Hedgesville	100			
Hole Bros. Refinery	Cut Bank		250		
Home Oil & Refg. Co.	Great Falls		1,000		
Eugene Hunt	Winnett	200			
Independent Refg. Co.	Laurel	5,000	5,000	1,500	1,500
The Russell Oil Co. (Indep. Sales Co.)	Billings	1,000			
The Russell Oil Co. (Indep. Sales Co.)	Butte	500			
Unity Pet. Corp.	Kalispell	800	800	800	800
Yale Oil Corp. of S. D.	Billings	6,000	2,000		
		15,250	13,400	2,800	3,600

5881

	Montana				
	Non-Defendant Majors				
International Refg. Co. (The Texas Company)	Sunburst	3,000	3,000	2,000	2,000
		State total	16,400		5,600
	Ohio				
	Independents				
The Canfield Oil Co.	Cleveland	1,000	1,000		
	Non-Defendant Majors				
Gulf Refg. Co. (Del.)	Hoven	14,000	13,000	13,000	14,200
" " " "	Toledo	13,000	13,000	6,500	13,000
The National Refg. Co.	Findlay	3,200	3,200	1,350	1,350
" " " "	Marietta	700	700		
Standard Oil Co. (Ohio)	Cleveland	24,000	24,000	10,000	10,000
" " " "	Lima	7,500	7,500	4,000	4,000
" " " "	Toledo	12,000	12,000	4,500	4,500
Sun Oil Co.	Toledo	14,000	14,000	10,000	10,000
		88,400	87,400	49,350	57,050
		State total	88,400		57,050

5882

Refinery	Location	1935 Distillation Capacity	1936 Distillation Capacity	1935 Cracking Capacity	1936 Cracking Capacity
	Western Pennsylvania (Oil City-Warren-Bradford Area)				
	Independents.				
James B. Berry Sons Co. Inc.	Oil City	2,500	2,500		
Bradford Oil Refining Co	Bradford	2,300	2,300		
Bradford-Penn Rfg. Corp	Clarendon	1,000	1,000		
Continental Refining Co	Oil City	1,000	1,000		
Daugherty Refining	Petrolia	4,000	4,000		
Franklin Creek Refg. Corp	Franklin	1,500	1,500		
Kendall Refining Co	Bradford	3,500	3,500	1,400	1,500
Oil Creek Refining Co	Fieldmore Springs	1,500	1,500		
Pennsylvania Oil Products Rfg. Co	Eldred	6,000	6,000	500	500
Pennsylvania Refining Co	Karns City	2,000	1,500		
" " "	Titusville	2,000	2,000		
The Pennsoil Co	Rouseville	10,000	10,000	4,500	4,500
Quaker State Oil Rfg. Corp	Emlenton	1,650	1,650	750	750
" " " " "	Farmers Valley	3,000	3,000	1,500	1,500
The Sloan & Zook Rfg. Co	Warren	1,500	1,500		

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	(Western Pennsylvania Cont'd)				
	Idpendents				
Superior Oil Works	Warren	500	500		
Tiona Refining Co	Clarendon	1,000			
Ultra Penn Refining Co	Bruin	1,000	800		
United Refining Co	Warren	3,000	3,500		500
Wolverine-Empire Refg. Co	Reno	2,000	2,000		
		50,950	49,750	8,650	9,250
	Non-Defendant Majors				
Atlantic Refg. Co	Franklin	9,000		6,000	
	District Total		49,750		9,250
	Pittsburgh Area Independents				
The Canfield Oil Co	Coraopolis	1,500	1,500		
Freedom Oil Co	Freedom	2,500	2,500	500	500
Valvoline Oil Co	E. Butler	2,500	2,500		
Waverly Oil Works	Pittsburgh	1,000	1,800		
		7,500	8,300	500	500

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Refinery	Location	1935 Distillation Capacity	1936 Distillation Capacity	1935 Cracking Capacity	1936 Cracking Capacity
	(Western Pennsylvania Cont'd)				
	Non-Defendant Majors				
Atlantic Refining Co	Pittsburgh	8,000		4,000	
Gulf Refining Co	Naville Island	10,000		5,200	
Gulf Oil Corp. of Pa	" "		10,000		1,800
		18,000	10,000	9,200	1,800
	District Total		18,300		2,300
	Texas				
	Central Texas				
	Independents				
Hightower Oil & Refg. Corp.	Brownwood		500		
Master Petroleum Co	Waco	800	800		
Minerva Refg. Co	Minerva		2,200		
		800	3,500		
	Non-Defendant Majors				
	None				
	District Total		3,500		

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	Texas (Cont'd)				
	Gulf Coast				
	Independents				
American Pet. Co	Houston	10,000	10,000		
Bennett Refg. Co	Houston		2,500		
Coastal Refineries, Inc	Port Isabel		5,000		2,500
Corpus Christi Refg. Co	Corpus Christi	3,500	3,500		
Crown Central Pet. Corp	Pasadena	15,000	15,000	6,000	6,000
Houston Oil Co. of Texas	Viola	1,000	1,000		
Nueces Refg. Co	Banquete	500			
Pettus Oil and Refg. Co	Mathis		1,000		
Phoenix Refg. Co., Inc	Houston	2,500			
Republic Oil Refg. Co	Texas City	6,000	5,000	4,000	5,000
Stone Oil Co	Texas City	7,500	7,500		
		46,000	50,500	10,000	13,500
	Non-Defendant Majors				
Gulf Refg. Co	Port Arthur	100,000	100,000	53,000	53,000
Humble Oil & Refg. Co	Bay Town	115,000	115,000	55,000	62,400
" " " " "	Ingleside	15,000	15,000	8,000	8,000
" " " " "	Neches	5,000			

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Refinery	Location	1935 Distillation Capacity	1936 Distillation Capacity	1935 Cracking Capacity	1936 Cracking Capacity
	Non-Defendant Majors (Cont'd)				
The Texas Company	Houston	20,000	20,000	1,000	2,500
" " "	Port Arthur	75,000	80,000	2,000	95,600
" " "	" "			90,000	
" " "	" "			3,600	
		330,000	330,000	212,600	221,500
	District Total		360,500		235,000
	South Texas Independents				
Amsco Refg. Co.	Mirando City	2,500	4,500	1,200	
Bee Oil & Refg. Co.	Peltus	800			
Citizens Refg. Co.	Luling	1,000			
Louis Hausman Oil Co.	Laredo	55			
Midway Oil & Refg. Co.	Pettus		500		
Pettus Refg. Co.	Pettus	1,000	1,000		
Phoenix Refg. Co., Inc.	San Antonio	600			
Pioneer Oil & Refg. Co.	Somerset	1,500			
Price Refg. Co.	San Antonio	500	500		
Rado Refg. & Prod. Co.	McAllen	500			
Valley Refg. Co.	Harlingen		1,000		
		8,455	7,500	1,200	

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	Non-Defendant Majors				
Humble Oil & Refg. Co.	San Antonio	4,500	4,500		
The Texas Co.	San Antonio	4,000	4,500	4,000	4,500
		8,500	9,000	4,000	4,500
	District Total		16,500		4,500
	El Paso				
	Non-Defendant Majors				
Standard Oil Company (Texas)	El Paso		14,000		4,048
Pasotex Petroleum Co.	El Paso	14,000		4,048	
Texas Company	El Paso	1,800	1,800	2,000	2,000
		15,800	15,800	6,048	6,048
	West Virginia Independents				
Carbide & Carbon Chemicals Corp.	S. Charleston	2,000	2,000	1,000	1,000
Elk Refg. Co.	Falling Rock	2,500	2,500		
Ohio Valley Refg. Co.	St. Marys	2,000	2,000	750	750
Tri-State Refg. Co.	Kenova			1,800	
		6,500	6,500	3,550	1,750

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Refinery	Location	1935 Distillation Capacity	1936 Distillation Capacity	1935 Cracking Capacity	1936 Cracking Capacity
	(West Va. Cont'd)				
	Non-Defendant Majors				
Standard Oil Co. of N. J....		6,000	6,000	13,714	9,000
	State Total		12,500		10,750
	Wyoming				
	Independents				
Capitol Oil & Refg. Co.....	Cheyenne.....	250			
Eclipse Oil & Refg.....	Newcastle.....	270			
The Fern Oil Co.....	Thermopolis....	500	500		
Gillette Refg. Company.....	Gilette.....		300		
Northwestern Pet. Co.....	Osage.....		300		
Resolute Oil Corp.....	Badger Basin...	400	450		
Sheridan Refg. Co.....	Sheridan.....	300	300		
		1,720	1,850		
	Non-Defendant Majors				
The Texas Company.....	Casper.....	7,000	7,000	5,000	5,000
" " "	Casper.....			1,800	2,500
" " "	Cody.....	3,000	3,000		1,500
		10,000	10,000	6,800	9,000
	State Total		11,850		9,000

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II.

SHUT DOWN

	Kentucky				
	Independents				
Glasgow Oil & Refg. Co.....	Glasgow.....	200			
Simrall Rfg. Corp.....	Horse Cave.....	2,600			
	Non-Defendant Majors				
	None				
	Louisiana Gulf Coast				
	Independents				
	None				
	Non-Defendant Majors				
Standard Oil Co. of La.....	Baton Rouge....			11,000	7,250
" " " "	Baton Rouge....			7,400	5,500
				18,400	12,750
			State Total		12,750

5890 Refinery	Location	1935 Distillation Capacity	1936 Distillation Capacity	1935 Cracking Capacity	1936 Cracking Capacity
	Montana				
	Independents				
Arro Oil & Rfg. Co	W. Lewistown	1,500		800	
Conrad Rfg. Co	Conrad	1,000			
Consumers Rfg. Co	Collins	500			
Cut Bank Rfg. Co	Cut Bank	250			
Hole Brothers	Cut Bank	250			
Home Oil & Rfg. Co	Great Falls	1,000			
Snow Cap Oil Co	Sunburst	330		200	
Sunburst Oil & Rfg. Co	Great Falls	3,000			
Yale Oil Corp. of S. D	Miles City	500			
		8,330		1,000	
	Non-Defendant Majors				
	None				
	Ohio				
	Independents				
Allegheny Arrow Oil	Canton	1,500	1,500	850	750
The Stellar Rfg	Marne	1,000		250	
		2,500	1,500	1,100	750
5891					
	Ohio				
	Non-Defendant Majors				
The Gulf Rfg. Co	Toledo			6,500	
The Standard Oil Co. (Ohio)	Lima			2,000	2,000
				8,500	2,000
	State Total		1,500		2,750
	Western Pennsylvania (Oil City-Warren-Bradford Area)				
	Independents				
Oil Creek Refining Co	Fieldmore Springs		1,500		
Pennzoil Co	Rouseville			2,000	2,000
Tiona Refining Co	Clarendon		1,000		
Valvoline Oil Co	Warren	1,000	1,000		
Wolverine-Empire Rfg. Co	Tideioute	800			
		1,800	3,500	2,000	2,000
	Non-Defendant Majors				
	None				
	District Total		3,500		2,000

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Refinery	Location	1935 Distillation Capacity	1936 Distillation Capacity	1935 Cracking Capacity	1936 Cracking Capacity
	Pittsburgh Area				
	Independents				
Carnegie Refining Co.	Carnegie	2,000	2,000		
A. D. Miller Sons Co.	Pittsburgh	1,000	1,000		
Waverly Oil Works	Pittsburgh			500	600
		3,000	3,000	500	600
	Non-Defendant Majors				
Atlantic Refining Co.	Pittsburgh		8,000		4,000
	District Total		11,000		4,600
	Texas (Central Texas)				
	Independents				
All State Refg. Co.	Thrall	2,500	2,500		
Bobrose Oil Mfg. Co.	Brownwood	1,000			
Minerva Rfg. Co.	Minerva	2,200			
		5,700	2,500		
	District Total		2,500		
	Non-Defendant Majors				
	None				

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	Texas (Gulf Coast)				
	Independents				
*Maritime Oil Co.	Houston		4,500		
Nueces Refg. Co.	Banquette		800		
Stone Oil Co.	Texas City			2,500	
			5,300	2,500	
	Non-Defendant Majors				
Humble Oil & Rfg. Co.	Baytown			5,600	
	District Total		5,300		
	Texas (South Texas)				
	Independents				
Citizens Oil & Ref. Co.	Luling		500		
Conroe Oil & Rfg. Co.	Conroe	500			
Motor Fuel Prod. Co., Inc.	Laredo	2,000	2,000	500	500
		2,500	2,500	500	500
	Non-Defendant Majors				
	*None				
	District Total		2,500		500

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Refinery	Location	1935 Distillation Capacity	1936 Distillation Capacity	1935 Cracking Capacity	1936 Cracking Capacity
	West Virginia				
	Independents				
Tri-State Refg. Co	Kenova	2,500	2,500		1,800
	Non-Defendant Majors				
	None				
	Wyoming				
	Independents				
Goshen Oil & Refg. Co	Torrington	250	250		
California Pet. Corp. (Utah)			300		
Golden Power Oil & Sup. Co.	Casper		200		
Northwestern Pet. Co	Osage	300			
Osage Rfg. Co	Osage	700	700	750	
Pedro Refinery	Newcastle		300		
Wyoil Refg. Co	Mills		200		
		1,250	1,950	750	
	Non-Defendant Majors				
The Texas Company	Cody			1,500	
		State Total	1,950		

5895 **DEFENSE EXHIBIT NO. 946.**

5896 **GASOLINE DEMAND**

U. S. Domestic Demand and Exports

1935	Domestic Demand	Exports	Total Demand	Total Demand Increase or Decrease Over same Month Previous Year
	(Barrels)	(Barrels)	(Barrels)	(Percents)
Jan.	28,147,000	2,133,000	30,280,000	4.81
Feb.	26,580,000	1,248,000	27,828,000	0.21
Mar.	32,272,000	2,582,000	34,854,000	4.19
Apr.	36,263,000	1,467,000	37,730,000	5.95
May.	39,381,000	2,147,000	41,528,000	2.87
June.	38,086,000	3,222,000	41,308,000	6.75
July.	41,479,000	3,022,000	44,501,000	12.70
Aug.	43,097,000	2,821,000	45,918,000	10.57
Sept.	37,976,000	3,109,000	41,085,000	11.72
Oct.	41,566,000	2,461,000	44,027,000	10.62
Nov.	35,991,000	3,158,000	39,149,000	5.03
Dec.	33,872,000	3,243,000	37,115,000	14.70
Total Year.	434,810,000	30,613,000	465,423,000	6.99
1936				
Jan.	32,412,000	2,572,000	34,984,000	15.54
Feb.	27,216,000	1,668,000	28,884,000	3.79
Mar.	35,871,000	1,615,000	37,486,000	7.55
Apr.	38,825,000	2,532,000	41,357,000	9.32
May.	42,007,000	2,702,000	44,709,000	7.66
June.	44,630,000	2,291,000	46,921,000	13.59
July.	46,638,000	2,369,000	49,007,000	10.13
Aug.	46,081,000	2,409,000	48,490,000	5.66
Sept.	44,346,000	2,491,000	46,837,000	14.00
Oct.	44,253,000	2,491,000	46,744,000	6.17
Nov.	39,919,000	2,586,000	42,505,000	8.57
Dec.	39,393,000	2,105,000	41,498,000	11.81
Total Year.	481,591,000	27,831,000	509,422,000	9.45

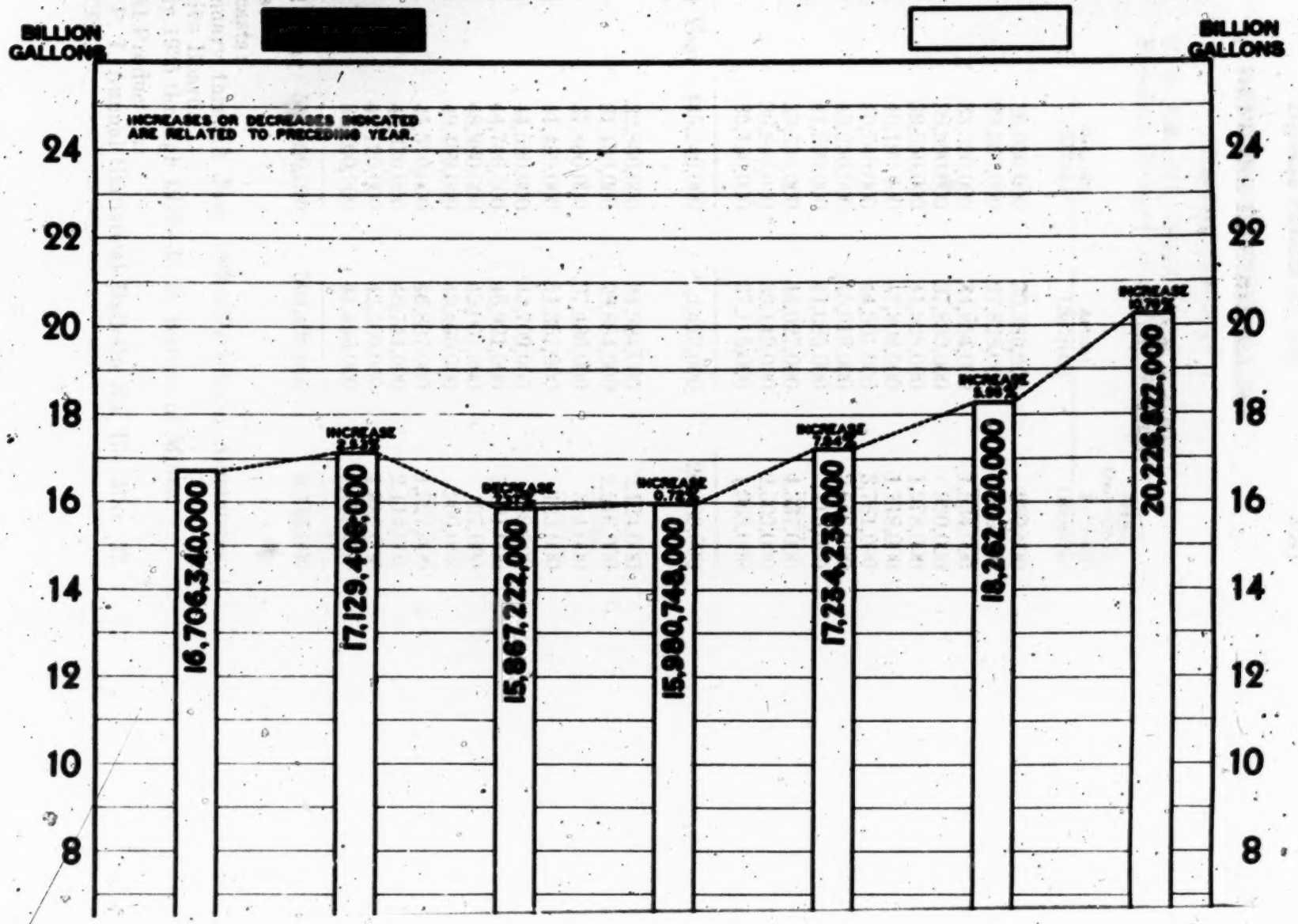
SOURCES: A. P. I. Annual Statistical Bulletin No. 16—May 27, 1937.

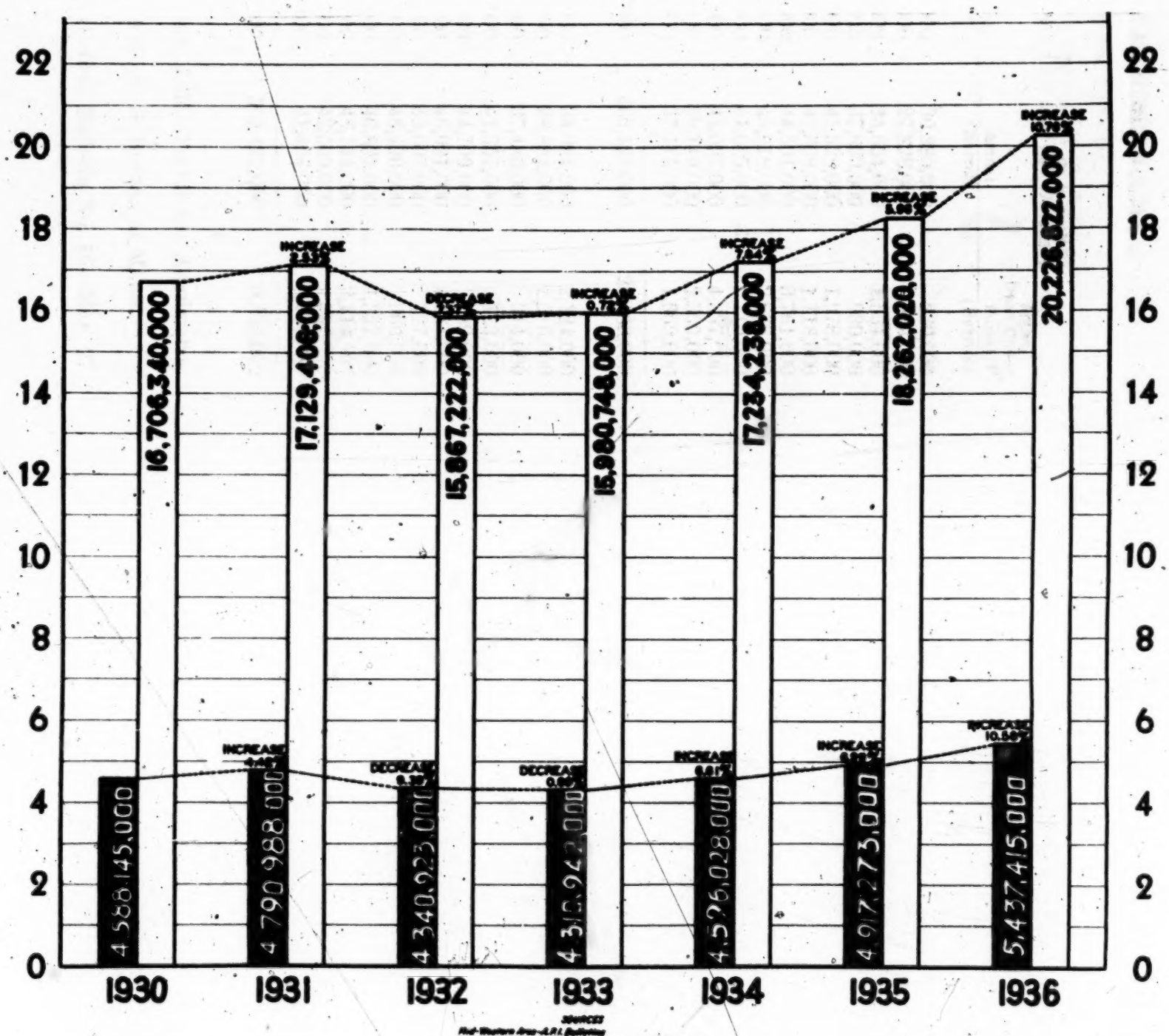
5897 **DEFENSE EXHIBIT NO. 947.**

EXHIBIT NO. 947

GASOLINE CONSUMPTION 1930-1936

TOTAL MID-WESTERN AREA VS. TOTAL UNITED STATES

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4 526,028,000
4 917 273,000
5,437,415,000
1930
1931
1932
1933
1934
1935
1936

6898

5899 **DEFENSE EXHIBIT NO. 948.**

5900 **Gasoline Demand**

U. S. Domestic Demand and Exports
Forecast Demand vs. Actual Demand

	Forecast (Barrels)	Actual (Barrels)	Actual Over-Under Forecast (Barrels)
1935			
Jan.	30,050,000	30,280,000	230,000
Feb.	28,360,000	27,828,000	532,000
Mar.	33,320,000	34,854,000	1,534,000
Apr.	36,900,000	37,830,000	930,000
May	39,550,000	41,528,000	1,978,000
June	40,190,000	41,308,000	1,118,000
July	40,740,000	44,501,000	3,761,000
Aug.	43,250,000	45,918,000	2,668,000
Sept.	41,200,000	41,085,000	115,000
Oct.	39,690,000	44,027,000	4,337,000
Nov.	36,840,000	39,149,000	2,309,000
Dec.	35,150,000	37,115,000	1,965,000
Total Year	445,240,000	465,423,000	20,183,000
1936			
Jan.	32,860,000	34,984,000	2,124,000
Feb.	31,400,000	28,884,000	2,516,000
Mar.	37,800,000	37,486,000	314,000
Apr.	41,480,000	41,357,000	123,000
May	44,520,000	44,709,000	189,000
June	44,740,000	46,921,000	2,181,000
July	48,880,000	49,007,000	127,000
Aug.	49,450,000	48,490,000	960,000
Sept.	45,510,000	46,837,000	1,327,000
Oct.	44,630,000	46,744,000	2,114,000
Nov.	41,120,000	42,505,000	1,385,000
Dec.	38,700,000	41,498,000	2,798,000
Total Year	501,090,000	509,422,000	8,332,000

Sources:

Forecasts:

January through June 1935—Petroleum Administrative Board.

July 1935 through 1936—U. S. Bureau of Mines.

Actual Production:

A. P. I. Annual Statistical Bulletin No. 16—Mar. 27, 1937.

5901 **DEFENSE EXHIBIT NO. 949.**

5902 **United States**

Gasoline Inventories

End of Each Month

	Finished Gasoline	Unfinished Gasoline	Total
	Barrels	Barrels	Barrels
1935			
Jan.	53,266,000	5,339,000	58,605,000
Feb.	58,939,000	5,949,000	64,888,000
Mar.	60,405,000	5,885,000	66,290,000
Apr.	58,218,000	6,175,000	64,393,000
May	55,196,000	6,287,000	61,483,000
June	53,141,000	6,366,000	59,507,000
July	50,472,000	5,974,000	56,446,000
Aug.	45,932,000	5,768,000	51,700,000
Sept.	44,624,000	5,710,000	51,334,000
Oct.	44,373,000	5,425,000	49,798,000
Nov.	46,295,000	5,751,000	52,046,000
Dec.	50,647,000	6,046,000	56,693,000
1936			
Jan.	55,917,000	6,837,000	62,754,000
Feb.	65,061,000	6,869,000	71,930,000
Mar.	67,128,000	7,357,000	74,485,000
Apr.	66,552,000	6,957,000	73,509,000
May	64,675,000	6,930,000	71,605,000
June	60,519,000	6,858,000	67,377,000
July	55,922,000	6,524,000	62,446,000
Aug.	53,040,000	6,456,000	59,496,000
Sept.	51,394,000	6,406,000	57,800,000
Oct.	51,238,000	6,424,000	57,662,000
Nov.	52,509,000	6,290,000	58,799,000
Dec.	56,353,000	6,532,000	62,885,000

Source: API Annual Statistical Bulletin No. 16, March 27, 1937.

5903 **DEFENSE EXHIBIT NO. 950.**

5904 **United States**

Days Supply of Finished Gasoline on Hand

	Gasoline Demand			
	Domestic & Export		Finished Gasoline Inventory End of Month	Days Supply
	Monthly Total	Average Per Day		
	Barrels	Barrels	Barrels	Days
1935				
Jan.	30,280,000	976,800	53,266,000	50.6
Feb.	27,828,000	993,900	58,939,000	50.1
Mar.	34,854,000	1,124,300	60,405,000	46.9
Apr.	37,830,000	1,261,000	58,218,000	43.1
May	41,528,000	1,339,600	55,196,000	39.7
June	41,308,000	1,376,900	53,141,000	36.8
July	44,501,000	1,435,500	50,472,000	34.3
Aug.	45,918,000	1,481,200	45,932,000	33.4
Sept.	41,085,000	1,369,500	45,624,000	32.2
Oct.	44,027,000	1,420,200	44,373,000	34.4
Nov.	39,149,000	1,305,000	46,295,000	39.1
Dec.	37,115,000	1,197,200	50,647,000	46.7
Total	465,423,000	1,275,100		
1936				
Jan.	34,984,000	1,128,500	55,917,000	51.4
Feb.	28,884,000	996,000	65,061,000	51.0
Mar.	37,486,000	1,209,200	67,128,000	47.9
Apr.	41,357,000	1,378,600	66,552,000	45.0
May	44,709,000	1,442,200	64,675,000	41.2
June	46,921,000	1,564,000	60,519,000	38.4
July	49,007,000	1,580,900	55,922,000	35.8
Aug.	48,490,000	1,564,200	53,040,000	34.1
Sept.	46,837,000	1,561,200	51,394,000	34.3
Oct.	46,744,000	1,507,900	51,238,000	36.5
Nov.	42,505,000	1,416,800	52,509,000	40.3
Dec.	41,498,000	1,338,600	56,353,000	46.9
	509,422,000	1,395,700		

Source: API Annual Statistical Bulletin No. 16, March 27, 1937.

5905 **DEFENSE EXHIBIT NO. 951.**

5906 **U. S. Crude Oil Production**

Recommended Production Compared with Actual Production

Year	Recommended Production		Actual Production
	Per Day (Barrels)	Computed Per Month (Barrels)	Per Month (Barrels)
1935			
Jan.	2,460,300	76,269,300	78,720,000
Feb.	2,526,100	70,730,800	72,802,000
Mar.	2,520,300	78,129,300	81,650,000
Apr.	2,527,300	75,819,000	78,723,000
May	2,561,200	79,397,200	82,652,000
June	2,651,000	79,530,000	82,692,000
July	2,660,000	82,460,000	85,809,000
Aug.	2,655,000	82,305,000	85,038,000
Sept.	2,613,000	78,390,000	84,458,000
Oct.	2,554,200	79,180,200	88,577,000
Nov.	2,563,700	76,911,000	86,752,000
Dec.	2,540,200	78,746,200	88,957,000
Total Year	2,569,501	937,868,000	996,596,000
1936			
Jan.	2,559,200	79,335,200	88,820,000
Feb.	2,648,100	76,794,900	82,120,000
Mar.	2,738,900	84,905,900	90,568,000
Apr.	2,797,300	83,919,000	90,479,000
May	2,826,300	87,615,300	93,739,000
June	2,838,300	85,149,000	90,185,000
July	2,917,200	90,433,200	92,078,000
Aug.	2,936,900	91,043,900	95,090,000
Sept.	2,864,000	85,920,000	90,972,000
Oct.	2,842,300	88,111,300	95,795,000
Nov.	2,870,300	86,109,000	91,018,000
Dec.	2,930,300	90,839,300	97,652,000
Total Year	2,814,689	1,030,176,000	1,098,516,000

Sources:

Recommended Production:

Petroleum Administrative Board—January through June, 1935.

U. S. Bureau of Mines—July 1935 and subsequent.

Actual Production:

A. P. I. Annual Statistical Bulletin No. 16—March 27, 1937.

5907 **DEFENSE EXHIBIT NO. 952.**

5908 **United States**

Crude Oil Inventories

	Inventory End of Month (Barrels)	Increase Decrease During Month (Barrels)
1935		
Jan.	338,199,000	945,000
Feb.	337,349,000	850,000
Mar.	339,179,000	1,830,000
Apr.	339,823,000	644,000
May	338,619,000	1,204,000
June	334,841,000	3,778,000
July	329,459,000	5,382,000
Aug.	325,106,000	4,353,000
Sept.	320,880,000	4,226,000
Oct.	317,955,000	2,925,000
Nov.	315,779,000	2,176,000
Dec.	314,855,000	924,000
Total year		22,399,000
1936		
Jan.	313,081,000	1,774,000
Feb.	310,812,000	2,269,000
Mar.	313,189,000	2,377,000
Apr.	315,389,000	2,200,000
May	315,169,000	220,000
June	311,046,000	4,123,000
July	306,390,000	4,656,000
Aug.	301,757,000	4,633,000
Sept.	295,693,000	6,064,000
Oct.	292,271,000	3,422,000
Nov.	288,998,000	3,273,000
Dec.	288,184,000	814,000
Total year		26,671,000

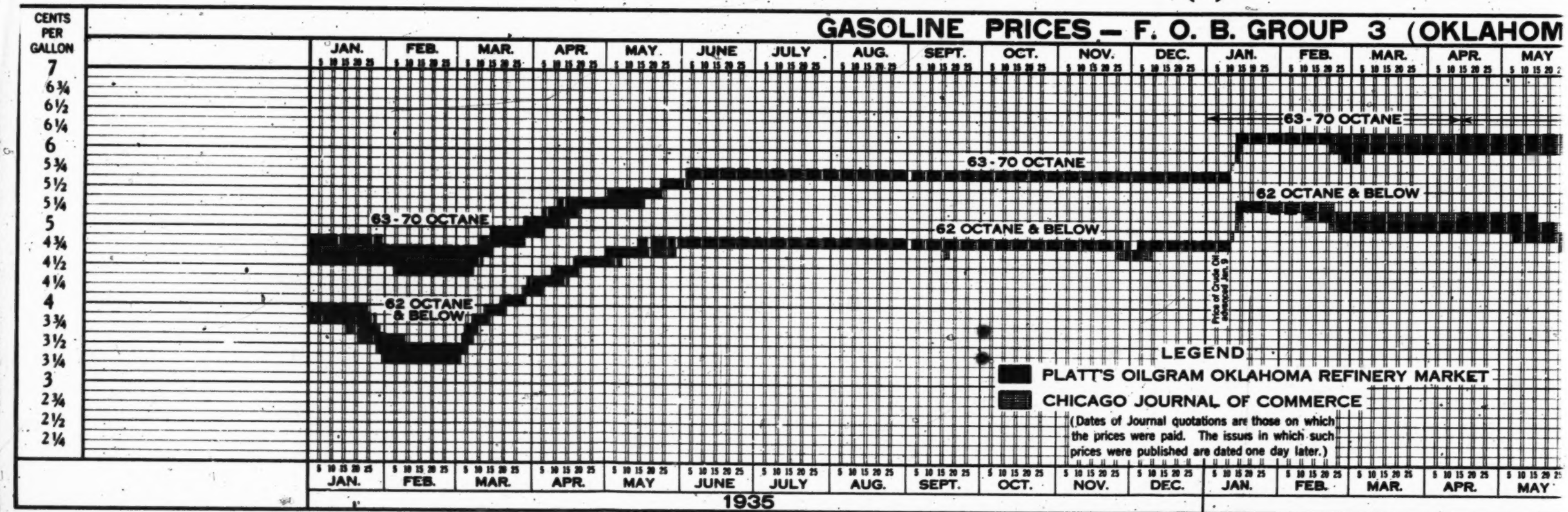
Sources:
A. P. I. Annual Statistical Bulletin #16—March 27, 1937.

5909 **DEFENSE EXHIBIT NO. 953.**

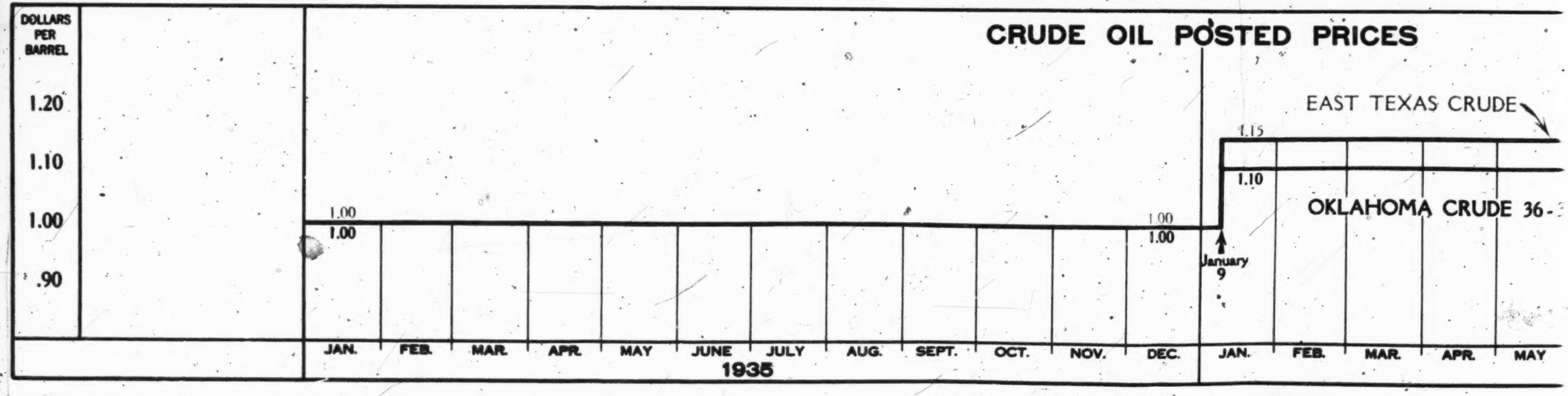
STATISTICS – CRUDE OIL AND GA

(1)

GASOLINE PRICES – F. O. B. GROUP 3 (OKLAHOM



CRUDE OIL POSTED PRICES



GASOLINE DEMAND

MILLIONS OF

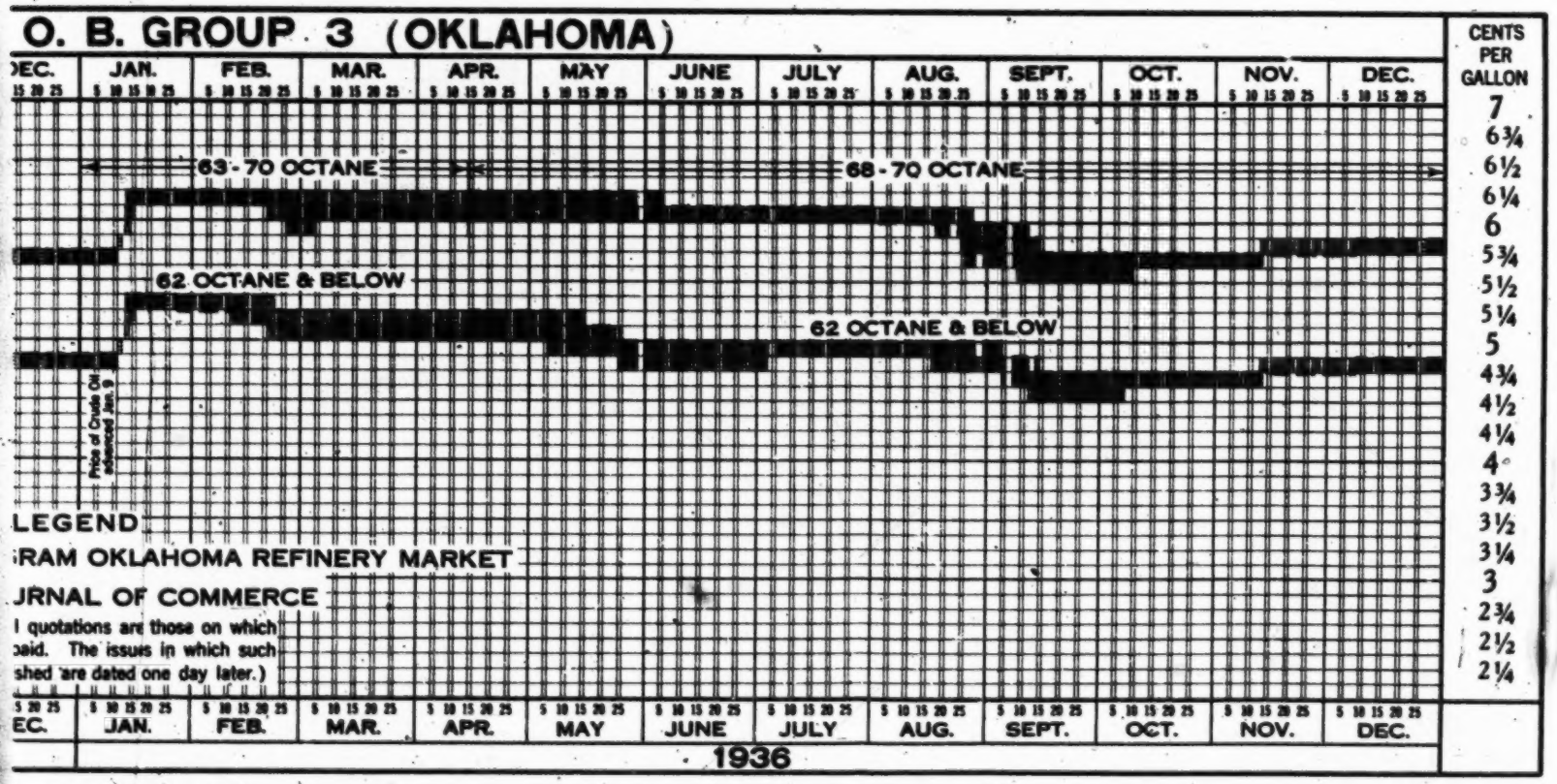
97

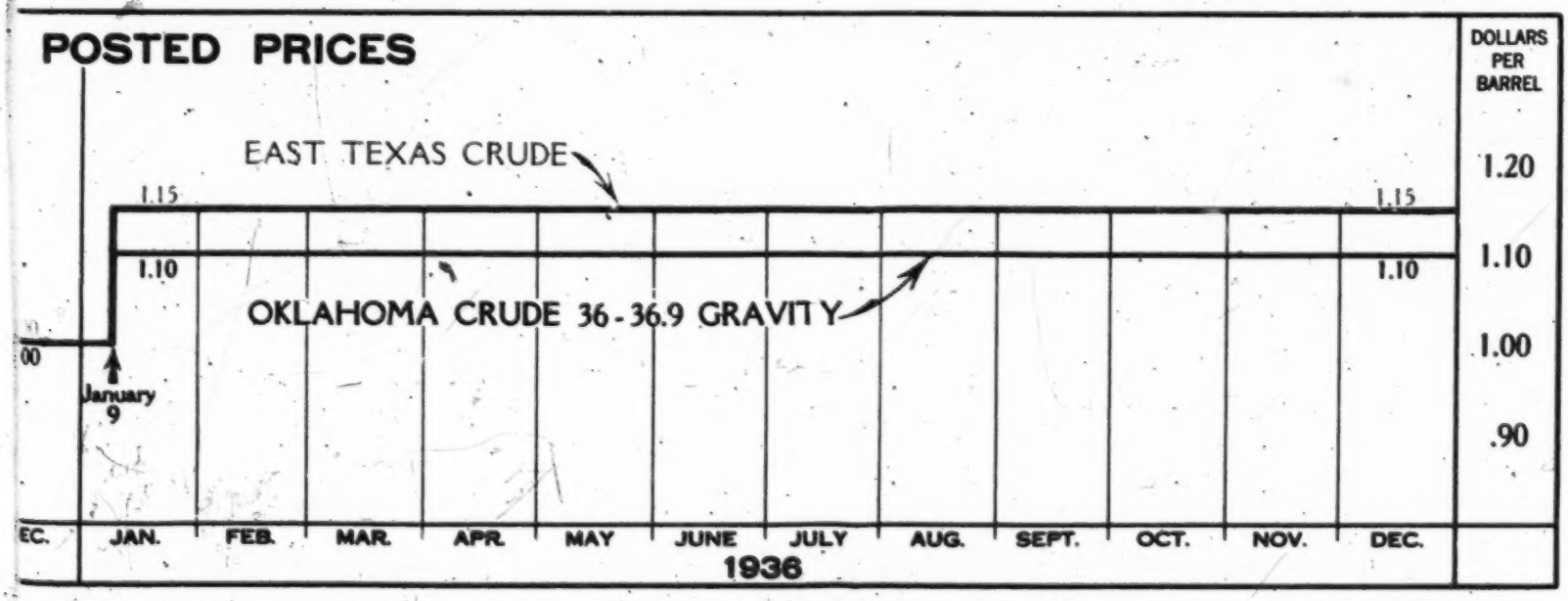
)E OIL AND GASOLINE

EXHIBIT NO. 953

(1)

3649



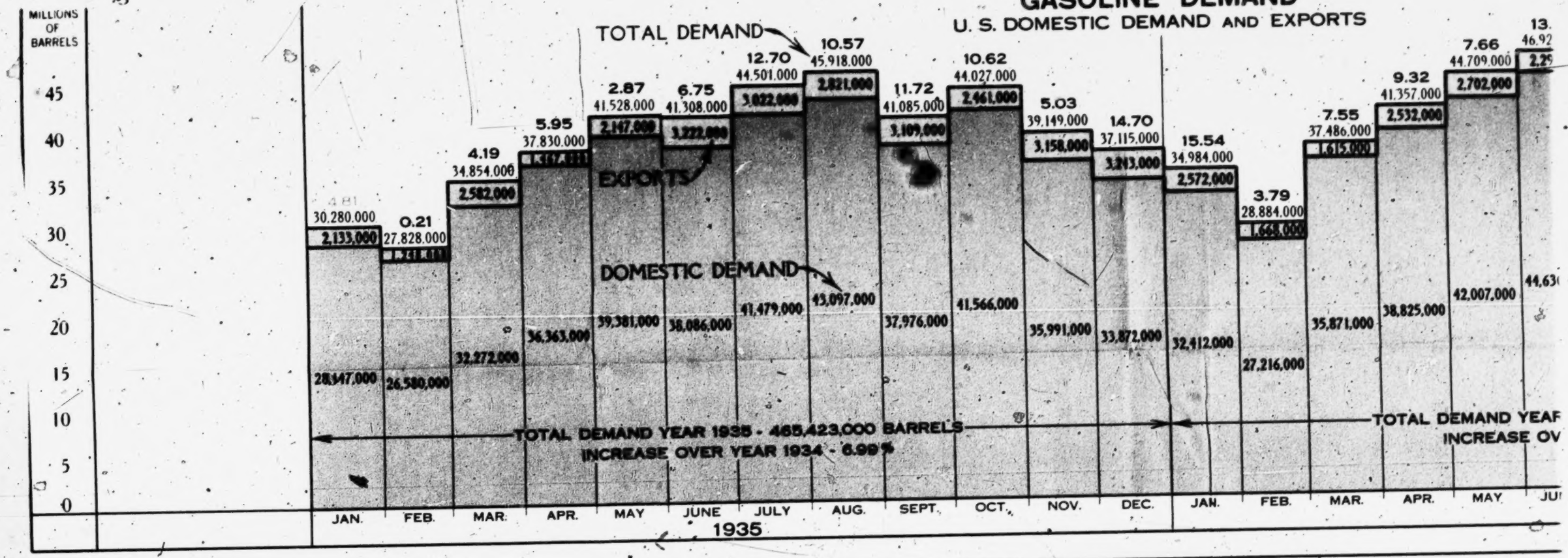


NE DEMAND

MILLIONS

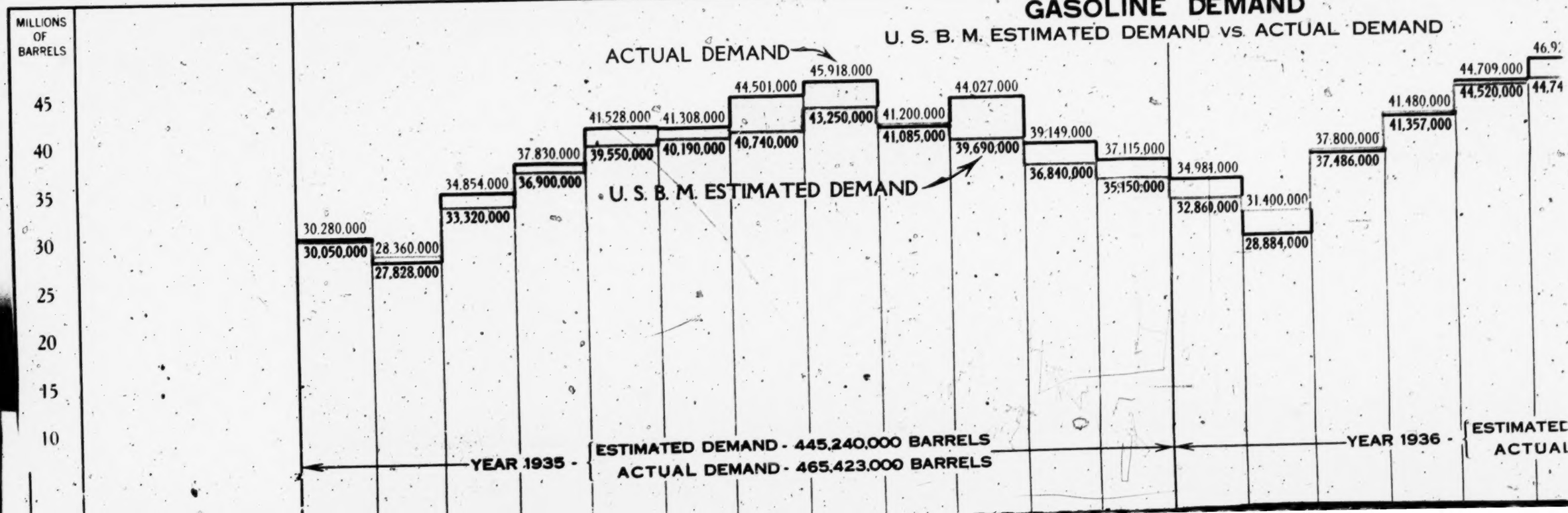
GASOLINE DEMAND

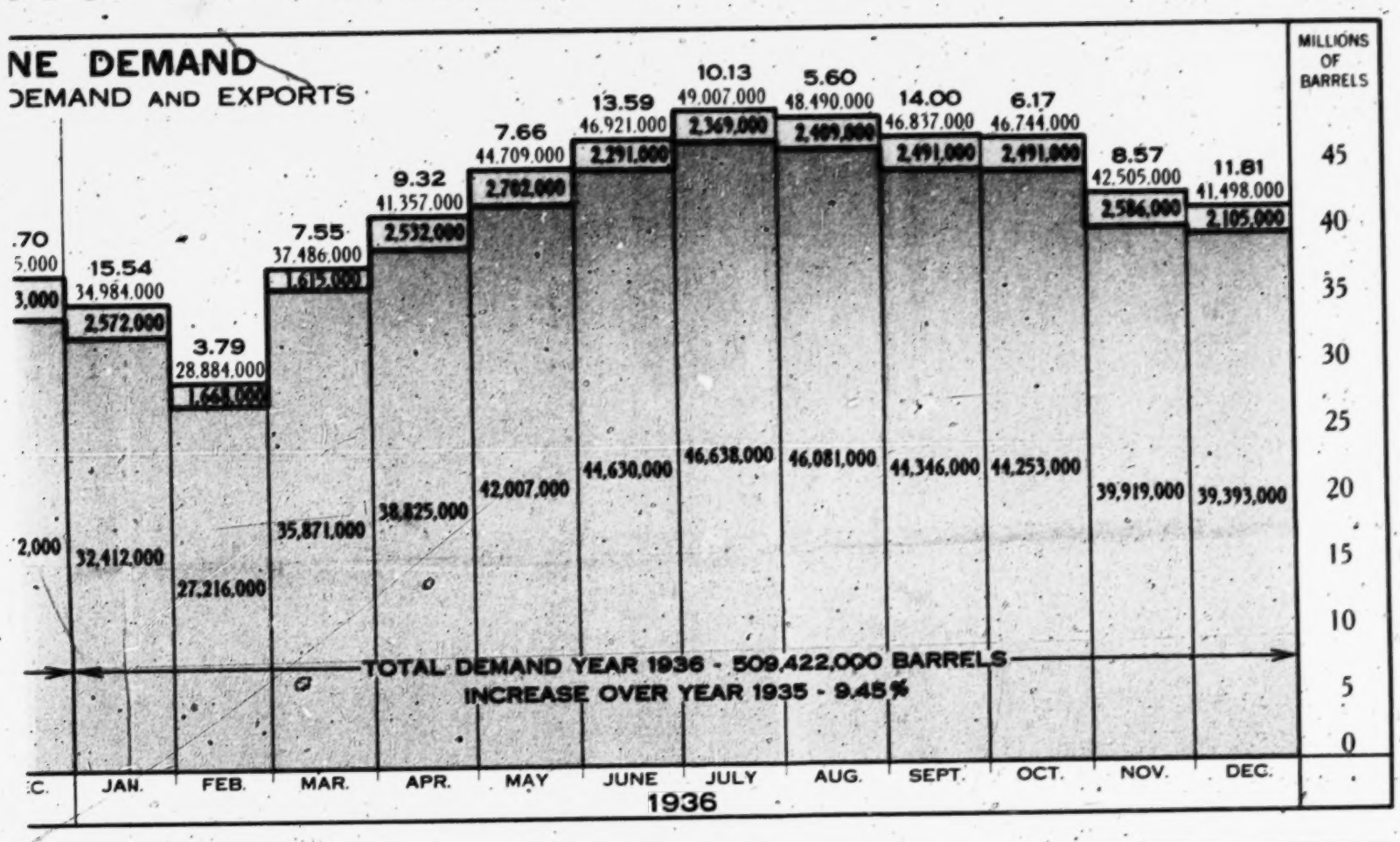
U. S. DOMESTIC DEMAND AND EXPORTS

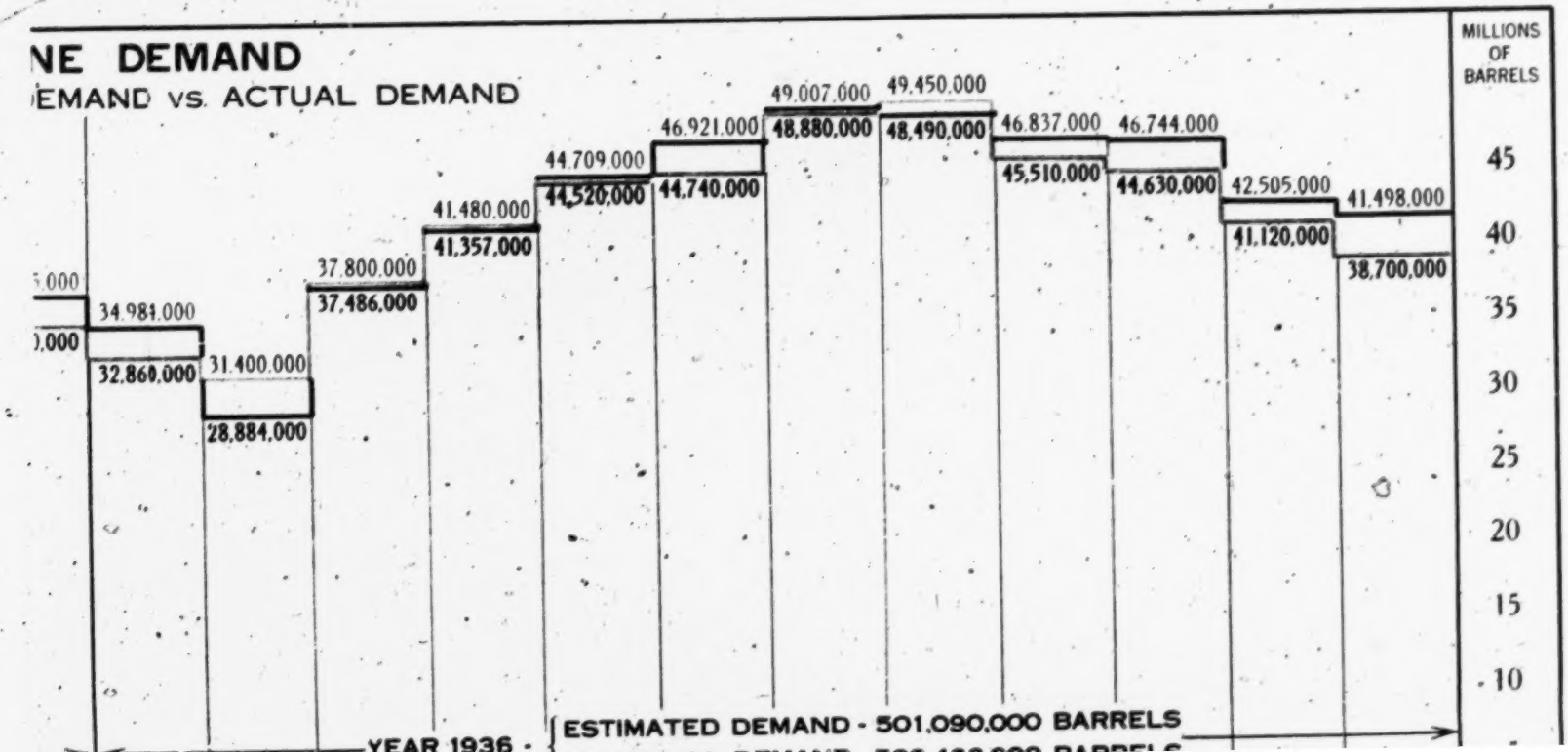


GASOLINE DEMAND

U. S. B. M. ESTIMATED DEMAND vs. ACTUAL DEMAND

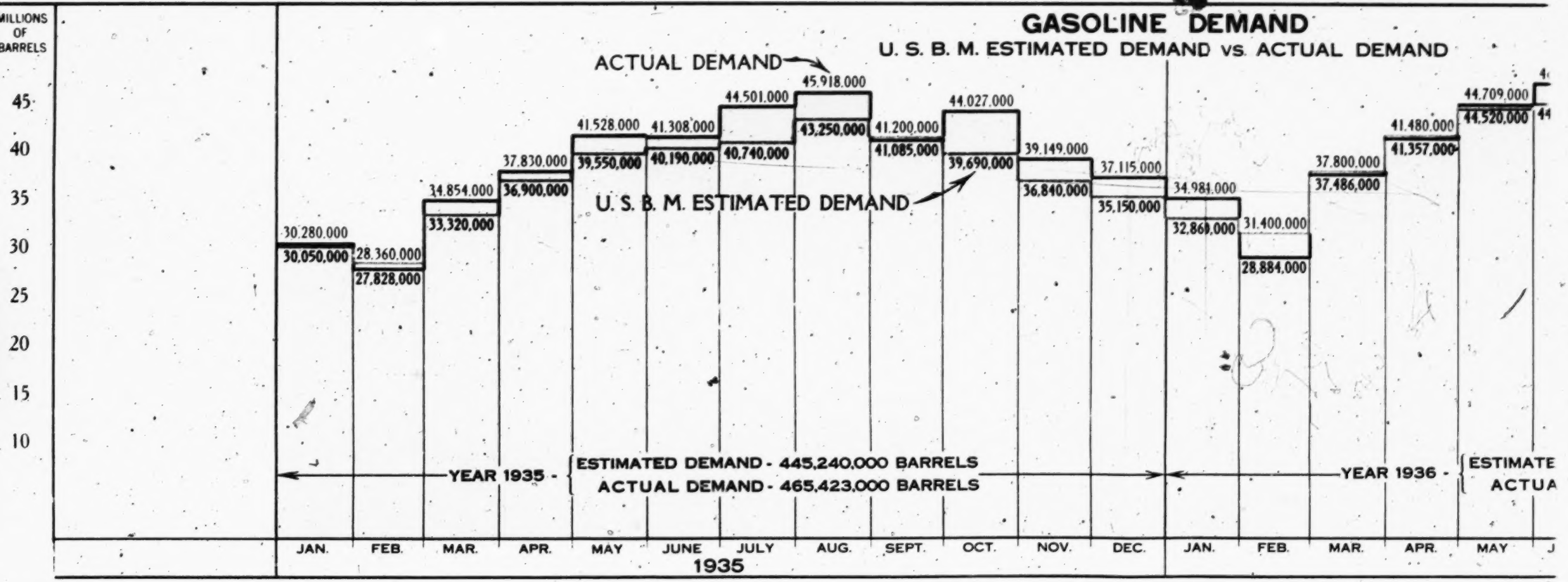



NE DEMAND
DEMAND AND EXPORTS
MILLIONS OF BARRELS
.70
15.54
34,984,000
2,572,000
3.79
28,884,000
7.55
37,486,000
9.32
41,357,000
2,532,000
7.66
44,709,000
2,702,000
13.59
46,921,000
2,291,000
10.13
49,007,000
2,369,000
5.60
48,490,000
2,409,000
14.00
46,837,000
2,491,000
6.17
46,744,000
2,491,000
8.57
42,505,000
2,586,000
11.81
41,498,000
2,105,000
32,412,000
27,216,000
35,871,000
38,825,000
42,007,000
44,630,000
46,638,000
46,081,000
44,346,000
44,253,000
39,919,000
39,393,000
TOTAL DEMAND YEAR 1936 - 509,422,000 BARRELS
INCREASE OVER YEAR 1935 - 9.45%
45
40
35
30
25
20
15
10
5
0
C.
JAN.
FEB.
MAR.
APR.
MAY
JUNE
JULY
AUG.
SEPT.
OCT.
NOV.
DEC.
1936


NE DEMAND
EMAND vs. ACTUAL DEMAND
MILLIONS OF BARRELS
34,981,000
32,860,000
31,400,000
28,884,000
37,800,000
37,486,000
41,480,000
41,357,000
44,709,000
44,520,000
46,921,000
44,740,000
49,007,000
48,880,000
49,450,000
48,490,000
46,837,000
45,510,000
46,744,000
44,630,000
42,505,000
41,120,000
41,498,000
38,700,000
ESTIMATED DEMAND - 501,090,000 BARRELS
YEAR 1936 -
45
40
35
30
25
20
15
10

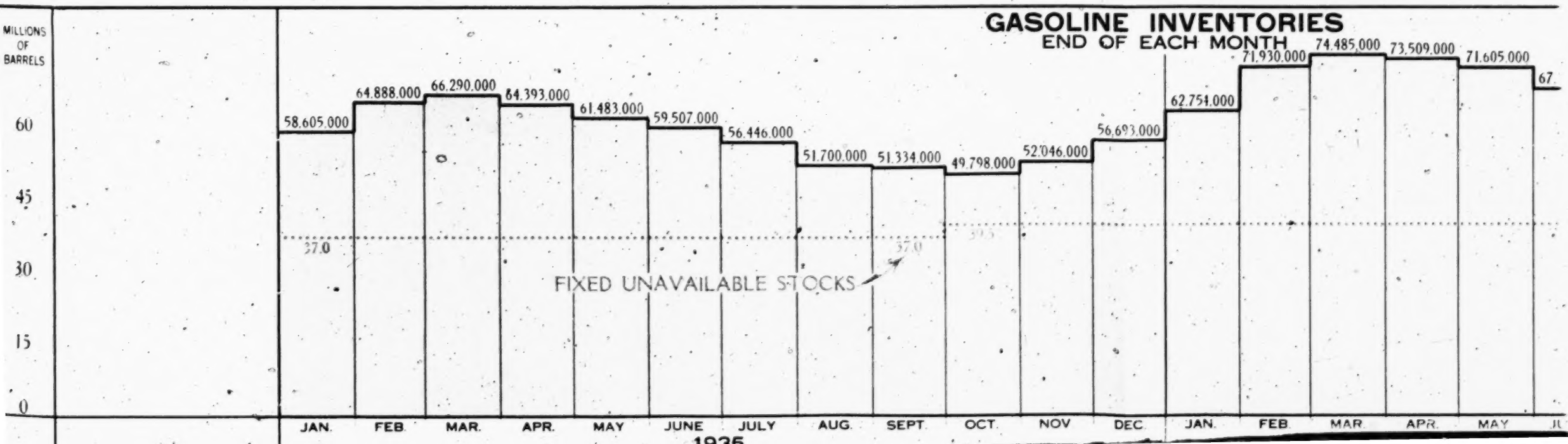
GASOLINE DEMAND

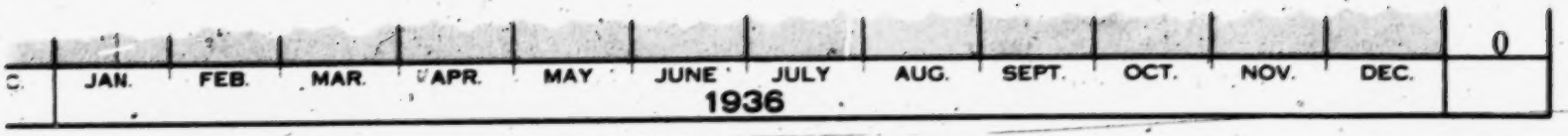
U. S. B. M. ESTIMATED DEMAND vs. ACTUAL DEMAND

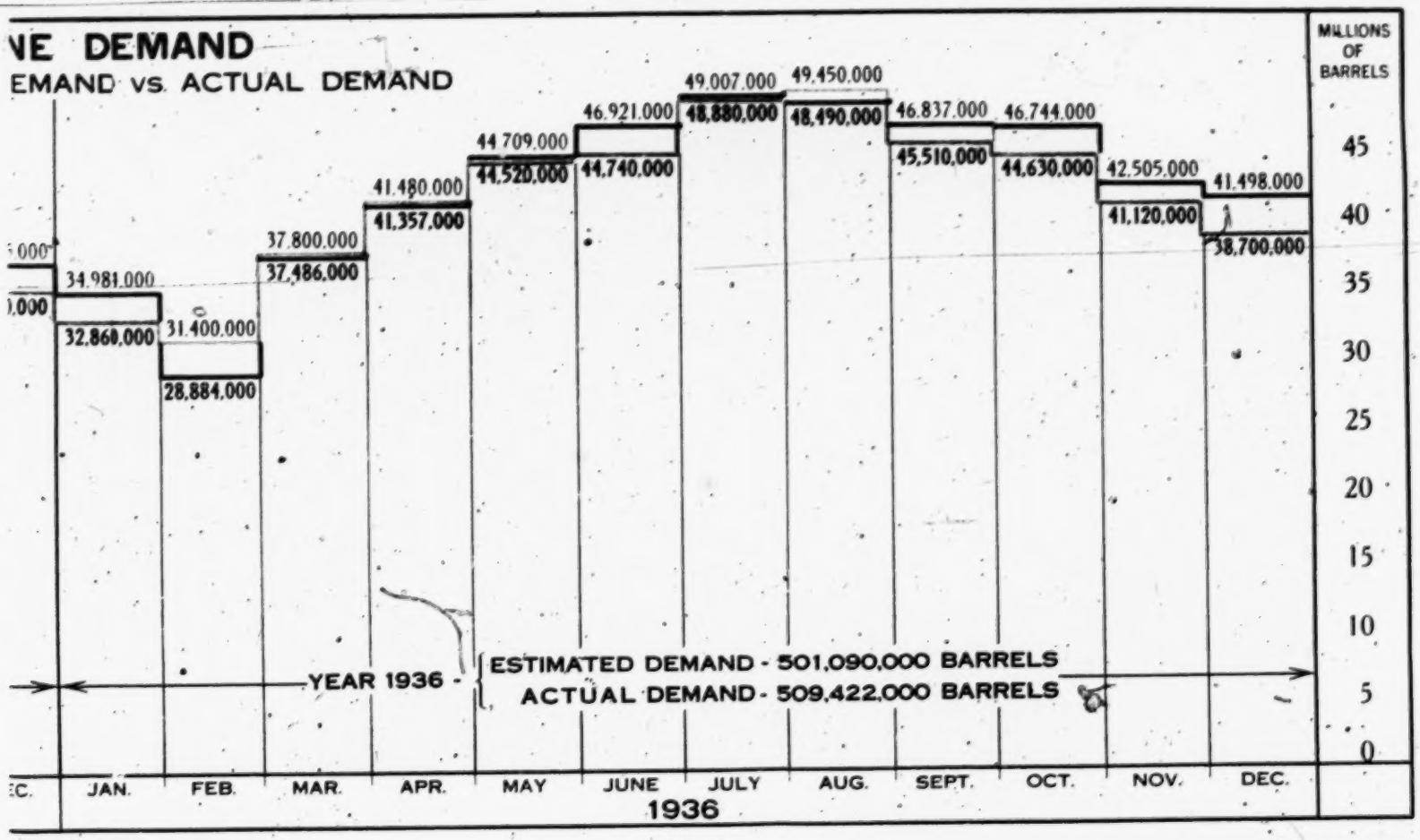


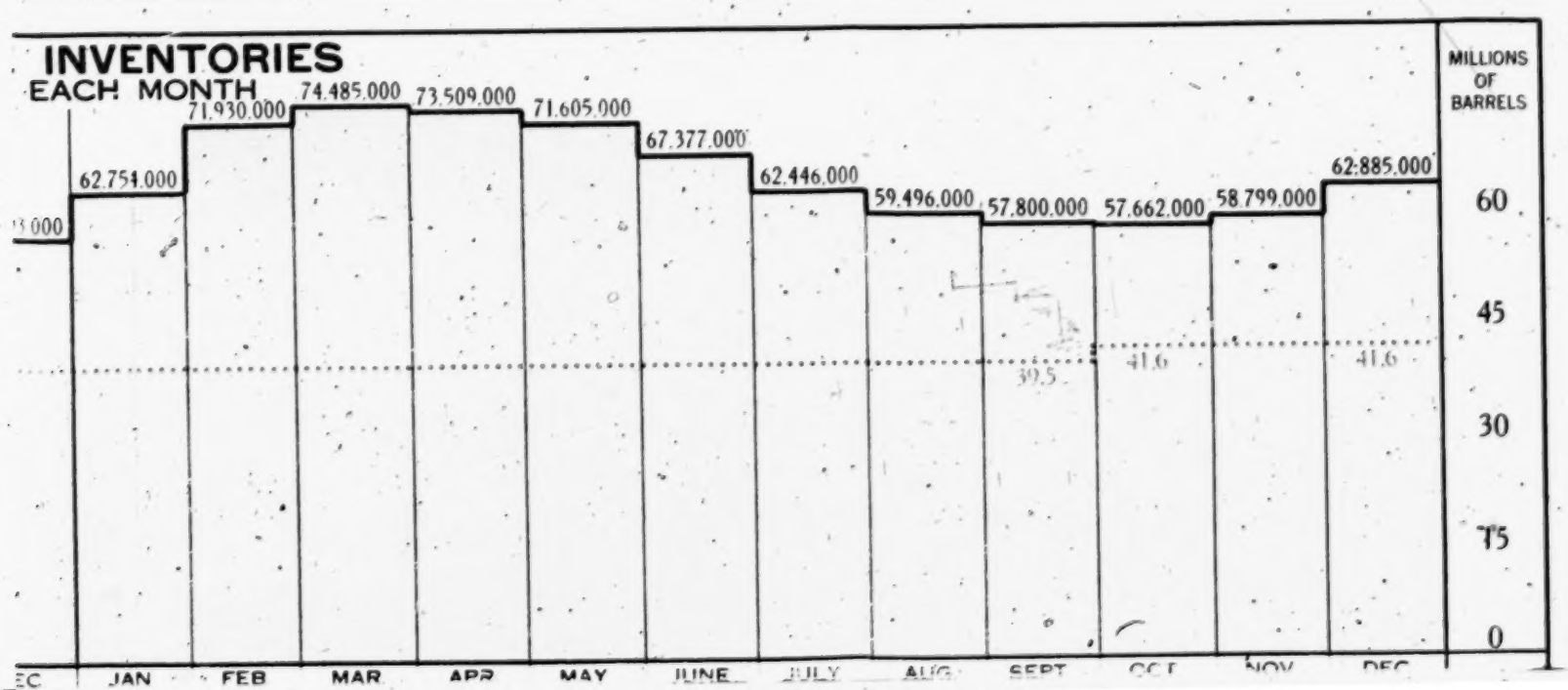
GASOLINE INVENTORIES

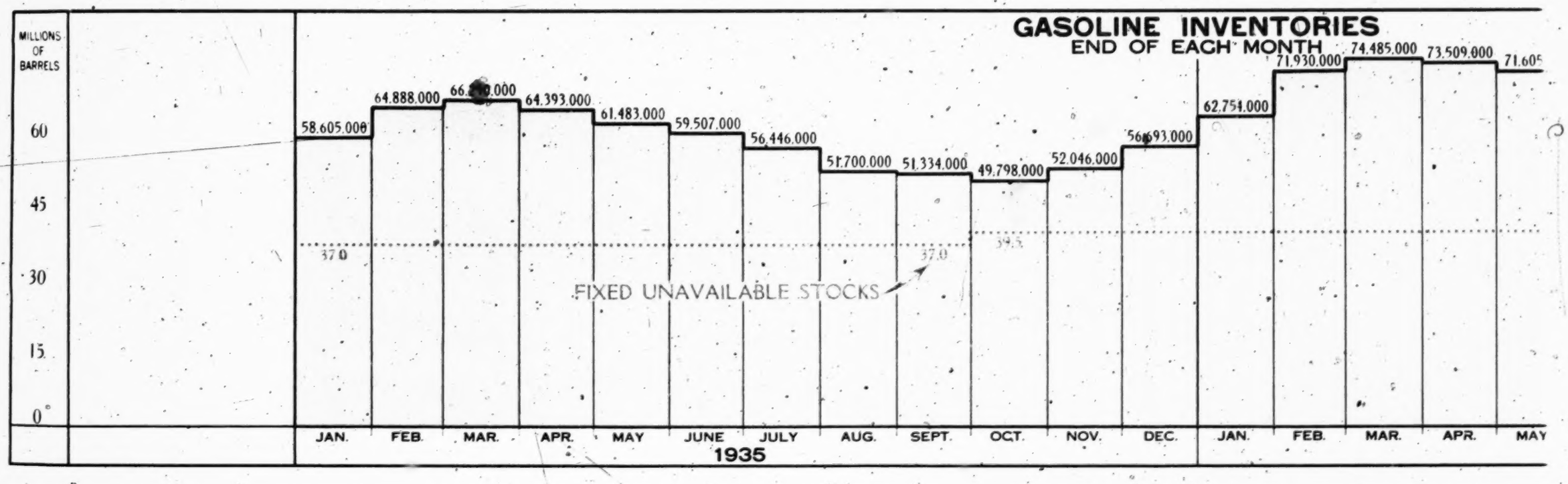
END OF EACH MONTH

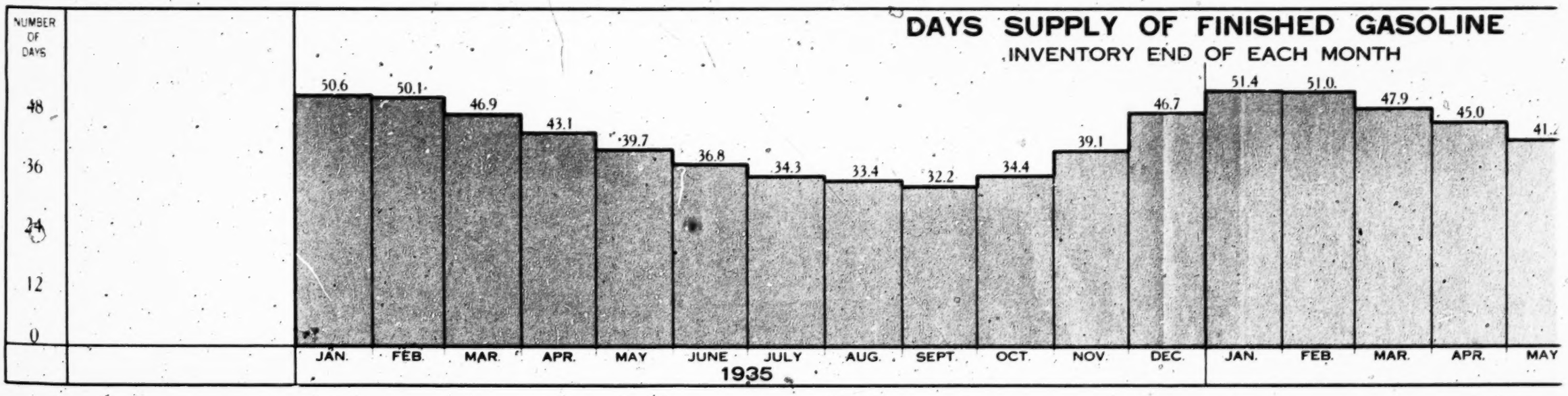


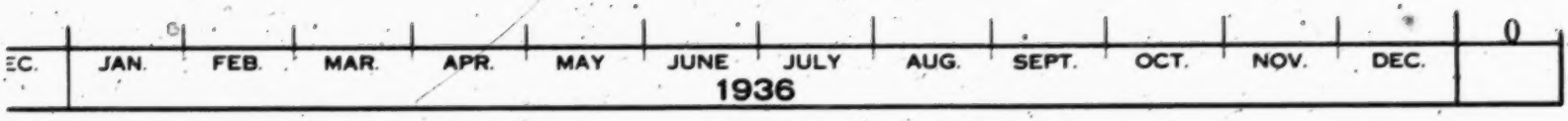

JAN.
FEB.
MAR.
APR.
MAY
JUNE
JULY
AUG.
SEPT.
OCT.
NOV.
DEC.
1936
0

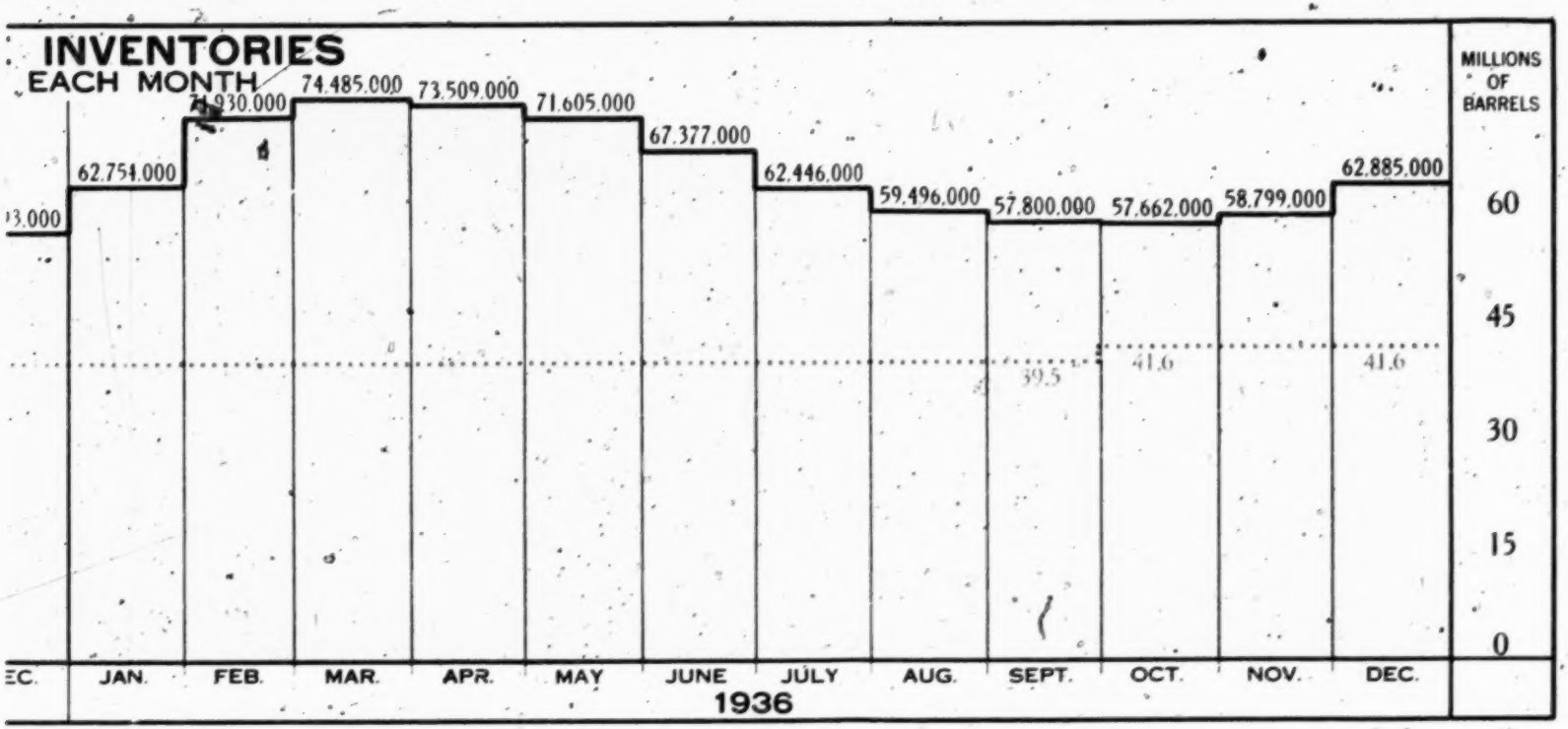

NE DEMAND
EMAND vs. ACTUAL DEMAND
MILLIONS OF BARRELS
34,981,000
32,860,000
31,400,000
28,884,000
37,800,000
37,486,000
41,480,000
41,357,000
44,709,000
44,520,000
46,921,000
44,740,000
49,007,000
48,880,000
49,450,000
48,490,000
46,837,000
45,510,000
46,744,000
44,630,000
42,505,000
41,120,000
41,498,000
38,700,000
YEAR 1936 -
ESTIMATED DEMAND - 501,090,000 BARRELS
ACTUAL DEMAND - 509,422,000 BARRELS
45
40
35
30
25
20
15
10
5
0
JAN.
FEB.
MAR.
APR.
MAY
JUNE
JULY
AUG.
SEPT.
OCT.
NOV.
DEC.
1936

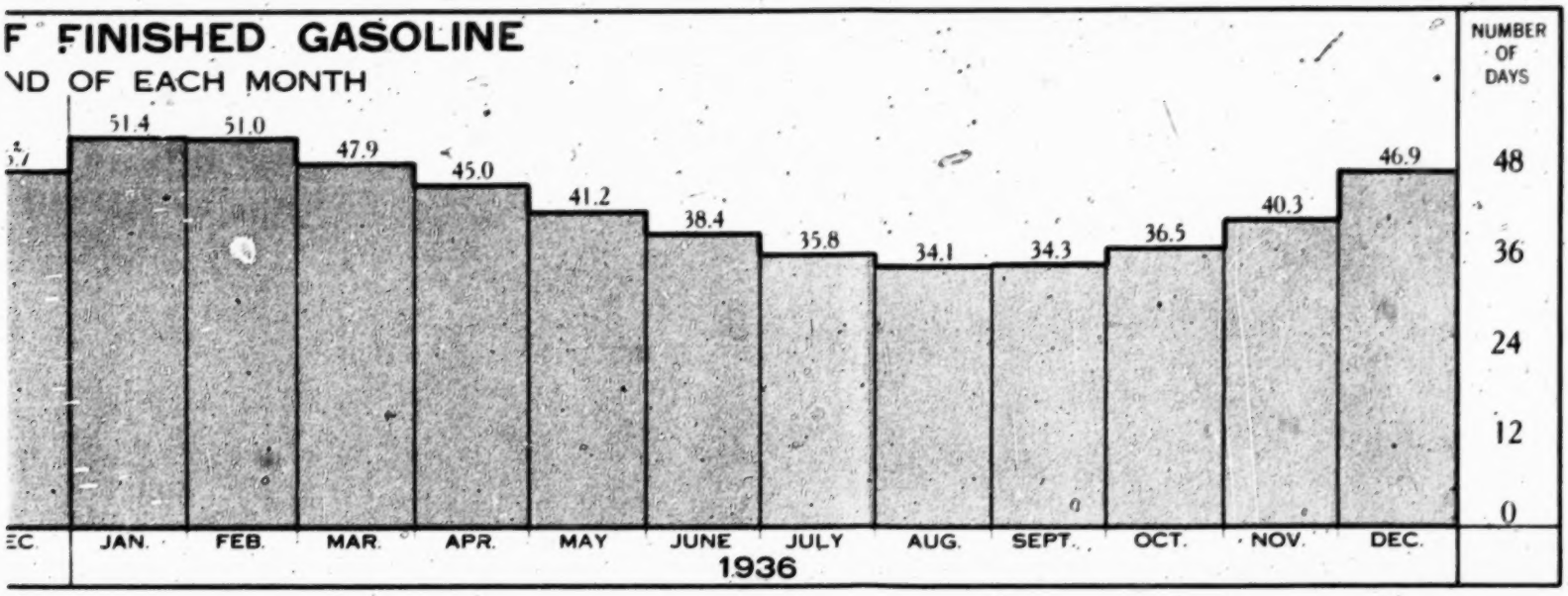

INVENTORIES
EACH MONTH
MILLIONS OF BARRELS
62,754,000
71,930,000
74,485,000
73,509,000
71,605,000
67,377,000
62,446,000
59,496,000
57,800,000
57,662,000
58,799,000
62,885,000
39.5
41.6
41.6
60
45
30
15
0
JAN
FEB
MAR
APR
MAY
JUNE
JULY
AUG
SEPT
OCT
NOV
DEC


GASOLINE INVENTORIES
END OF EACH MONTH
MILLIONS OF BARRELS
60
45
30
15
0
58.605.000
64.888.000
64.393.000
61.483.000
59.507.000
56.446.000
51.700.000
51.334.000
49.798.000
52.046.000
62.751.000
71.930.000
74.485.000
73.509.000
37.0
FIXED UNAVAILABLE STOCKS
JAN. FEB. MAR. APR. MAY JUNE JULY AUG. SEPT. OCT. NOV. DEC.
1935


DAYS SUPPLY OF FINISHED GASOLINE
INVENTORY END OF EACH MONTH
NUMBER OF DAYS
48
36
24
12
0
50.6
50.1
46.9
43.1
39.7
36.8
34.3
33.4
32.2
34.4
39.1
46.7
51.4
51.0
47.9
45.0
JAN. FEB. MAR. APR. MAY JUNE JULY AUG. SEPT. OCT. NOV. DEC.
1935


EC.
JAN.
FEB.
MAR.
APR.
MAY
JUNE
JULY
AUG.
SEPT.
OCT.
NOV.
DEC.
0
1936

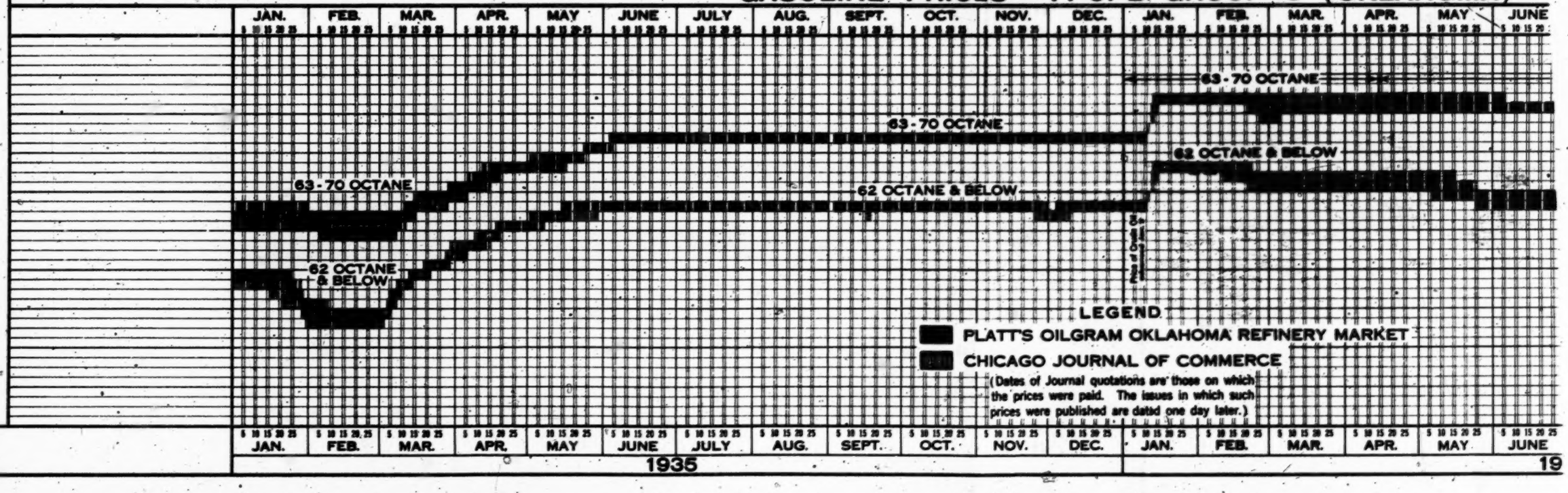

INVENTORIES
EACH MONTH
MILLIONS OF BARRELS
3.000
62.754.000
74.930.000
74.485.000
73.509.000
71.605.000
67.377.000
62.446.000
59.496.000
57.800.000
57.662.000
58.799.000
62.885.000
39.5
41.6
41.6
60
45
30
15
0
EC.
JAN.
FEB.
MAR.
APR.
MAY
JUNE
JULY
AUG.
SEPT.
OCT.
NOV.
DEC.
1936


F FINISHED GASOLINE
ND OF EACH MONTH
NUMBER OF DAYS
51.4
51.0
47.9
45.0
41.2
38.4
35.8
34.1
34.3
36.5
40.3
46.9
48
36
24
12
0
EC.
JAN.
FEB.
MAR.
APR.
MAY
JUNE
JULY
AUG.
SEPT.
OCT.
NOV.
DEC.
1936

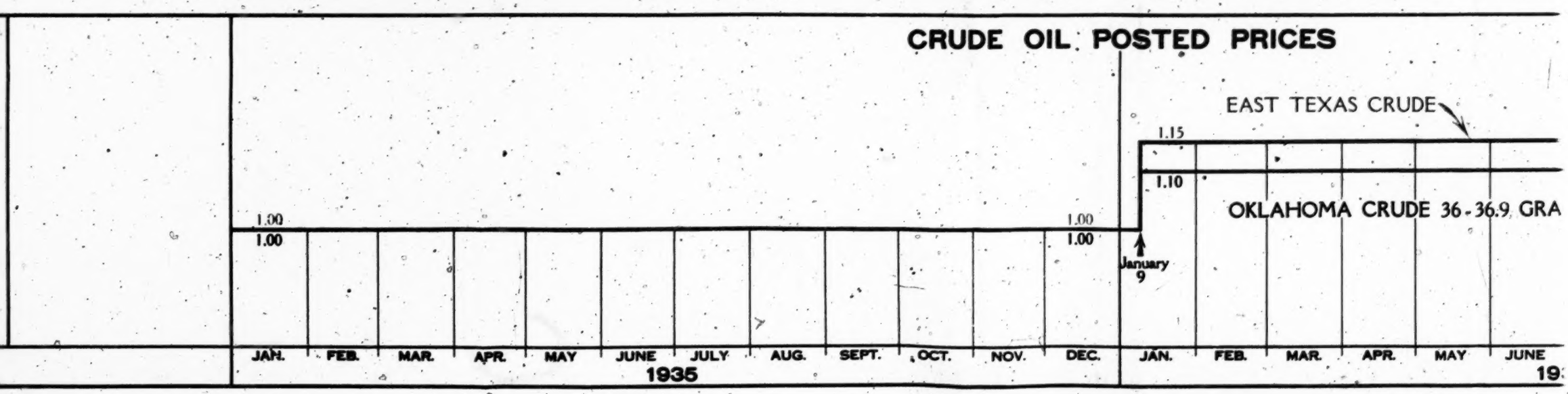
STATISTICS — CRUDE OIL AND GASO

(2)

GASOLINE PRICES — F. O. B. GROUP 3 (OKLAHOMA)



CRUDE OIL POSTED PRICES



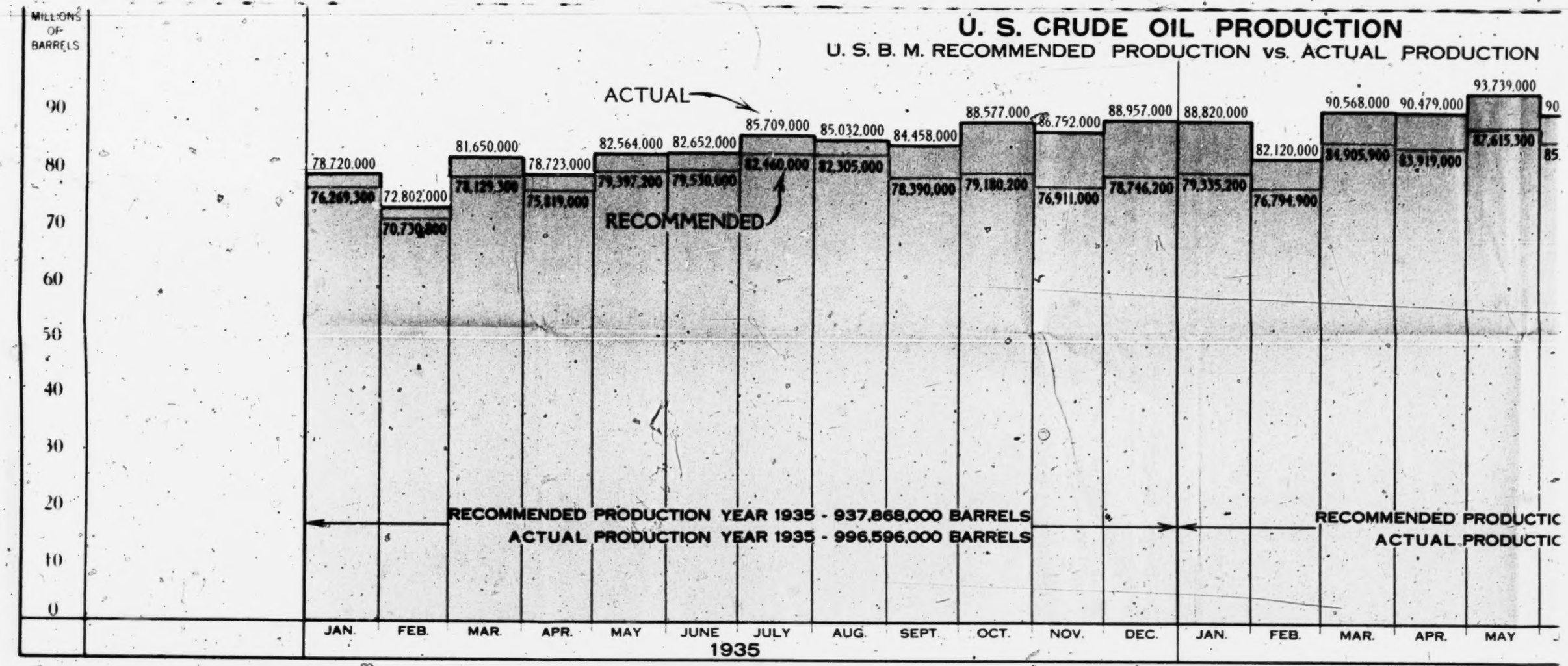
U. S. CRUDE OIL PRODUCTION

U. S. B. M. RECOMMENDED PRODUCTION vs. ACTUAL PRODUCTION

MILLIONS OF BARRELS

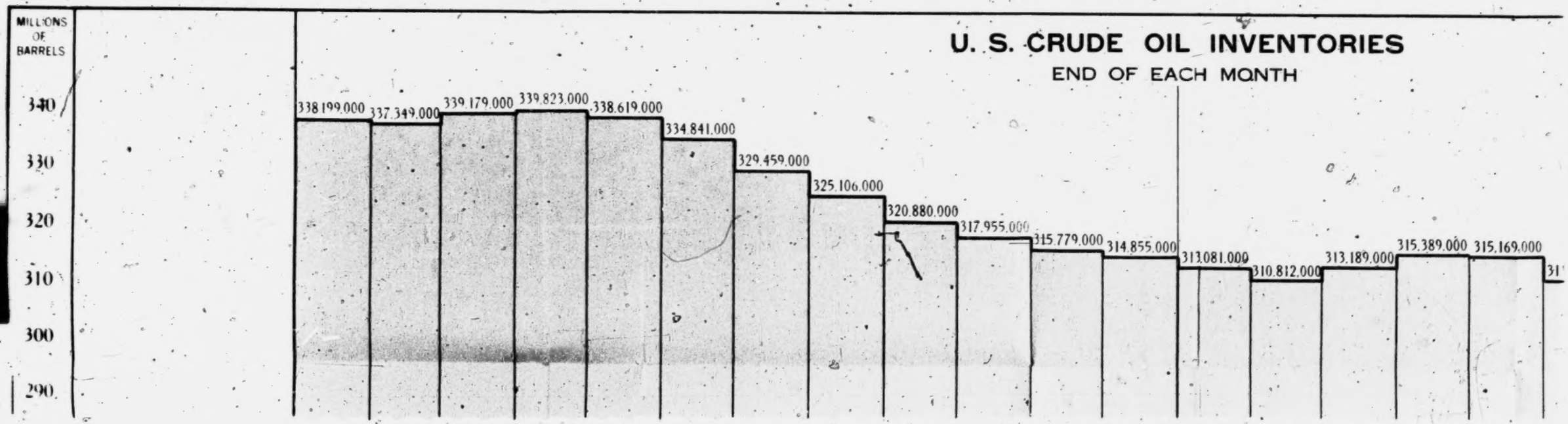
U. S. CRUDE OIL PRODUCTION

U. S. B. M. RECOMMENDED PRODUCTION vs. ACTUAL PRODUCTION



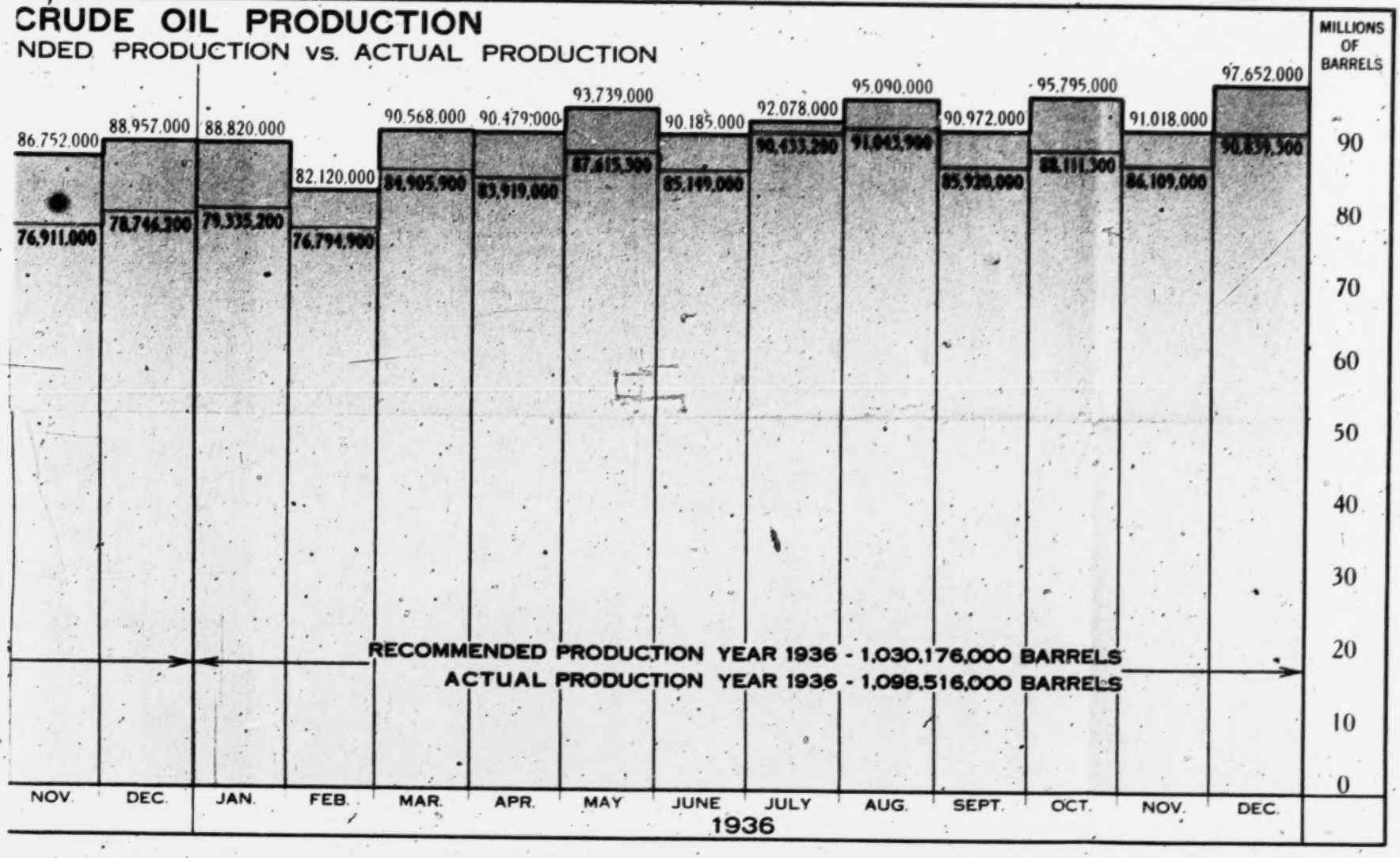
U. S. CRUDE OIL INVENTORIES

END OF EACH MONTH



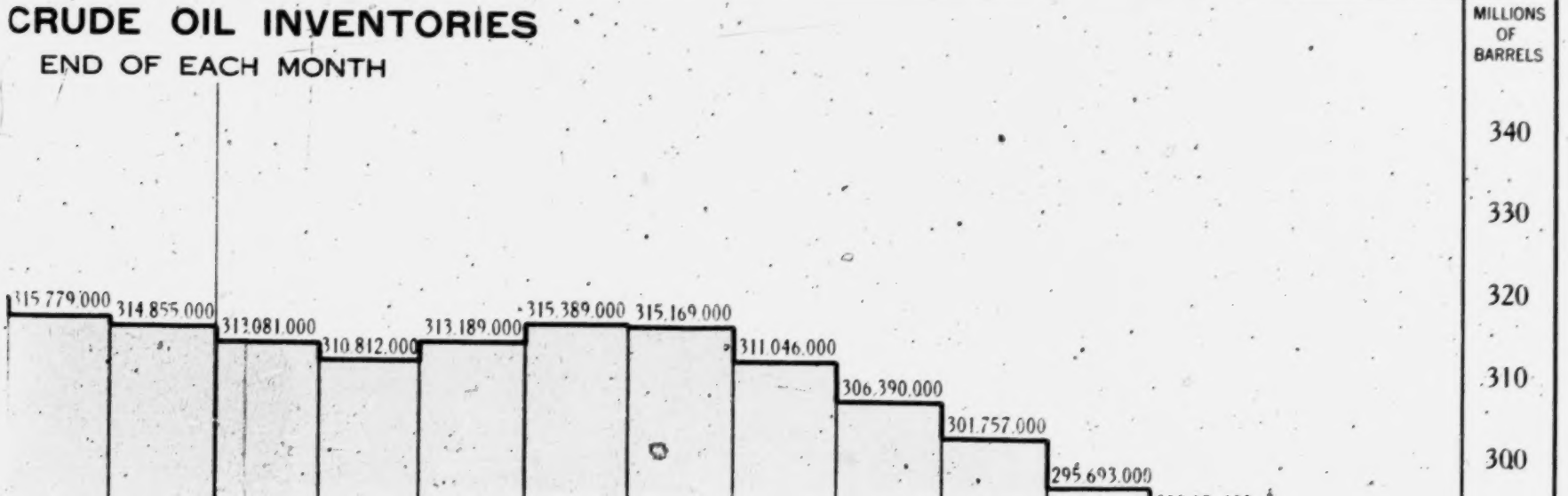
CRUDE OIL PRODUCTION

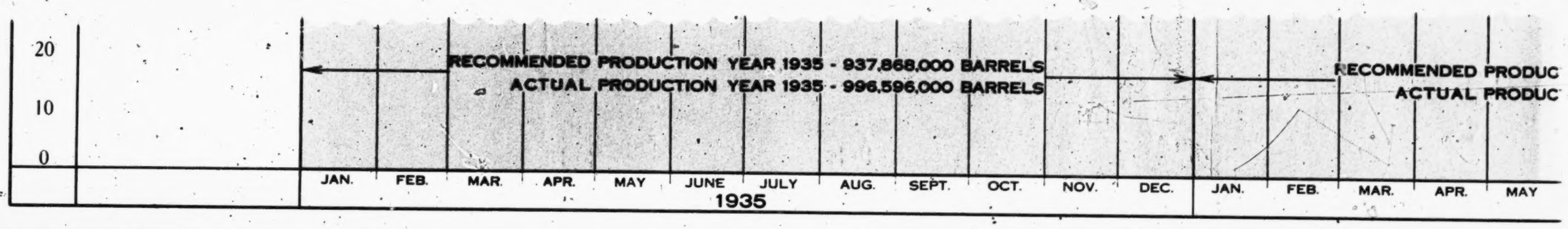
NDED PRODUCTION vs. ACTUAL PRODUCTION

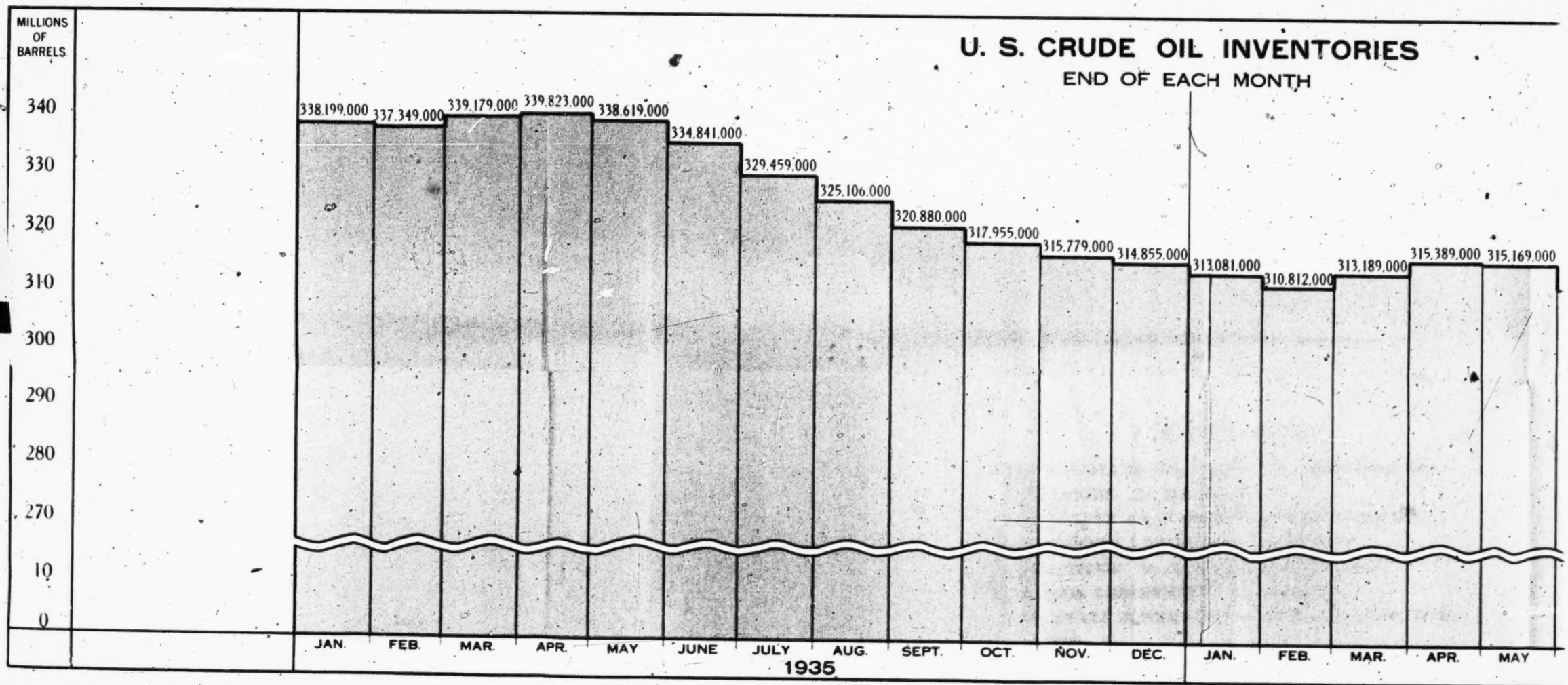


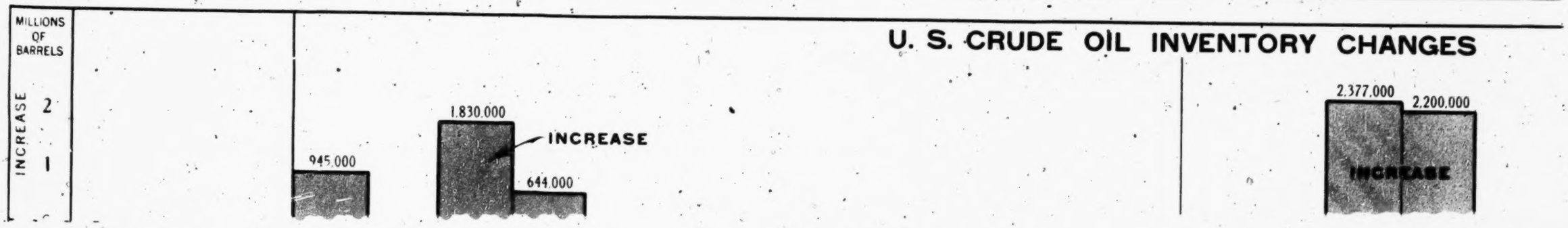
CRUDE OIL INVENTORIES

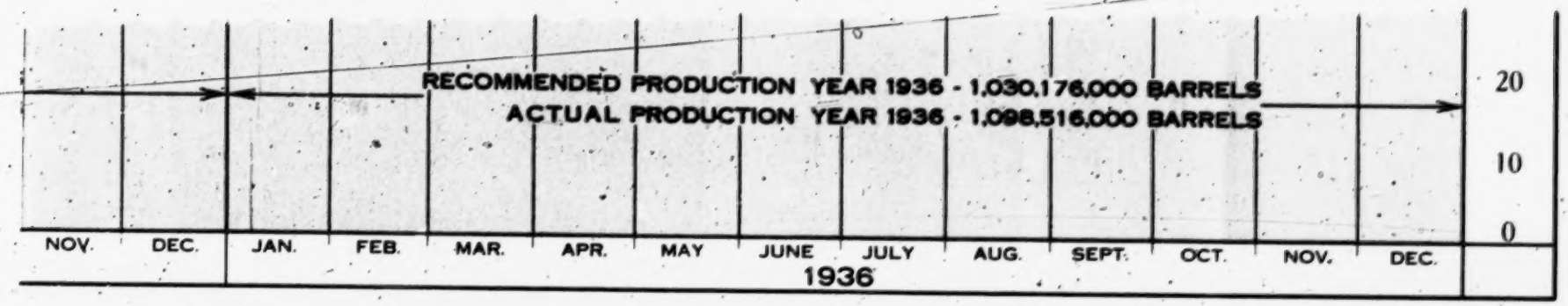
END OF EACH MONTH

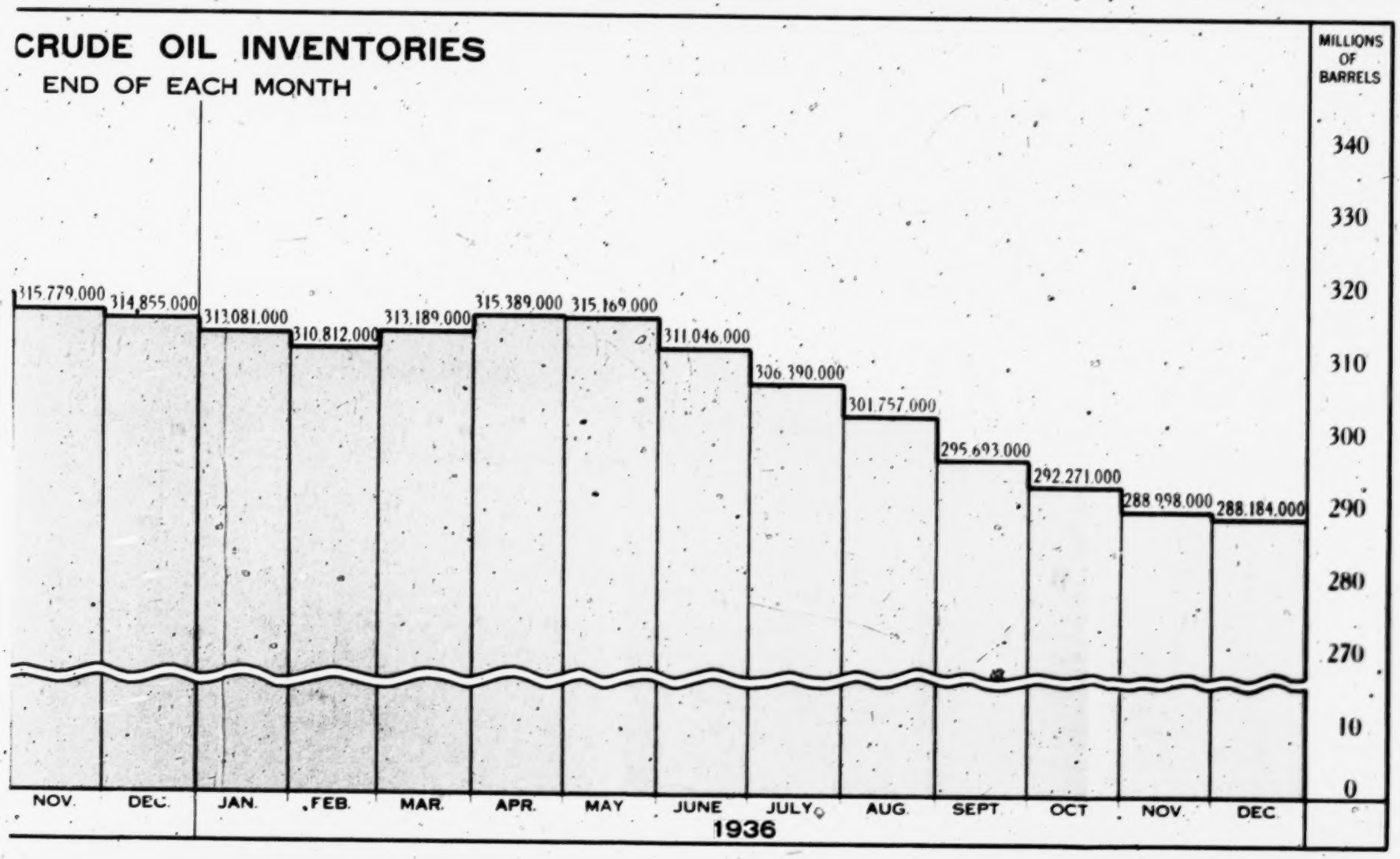


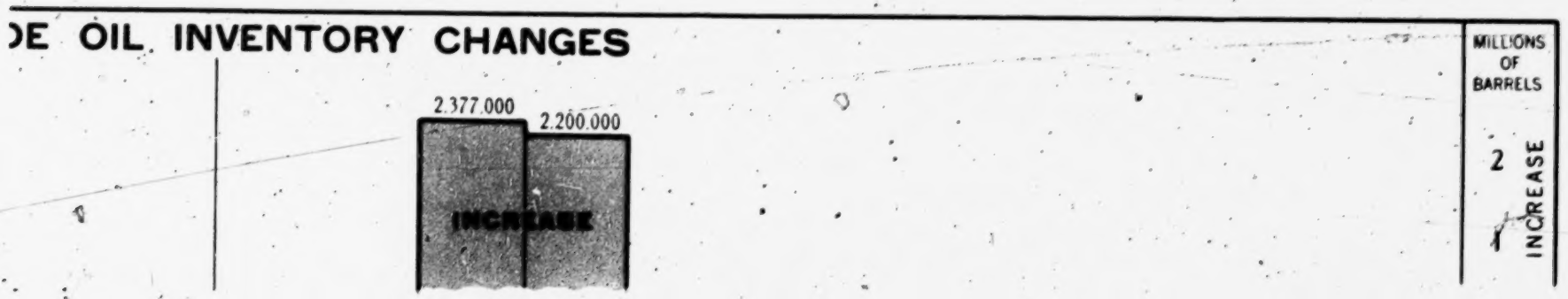

20
10
0
RECOMMENDED PRODUCTION YEAR 1935 - 937,868,000 BARRELS
ACTUAL PRODUCTION YEAR 1935 - 996,596,000 BARRELS
RECOMMENDED PRODUC
ACTUAL PRODUC
JAN. FEB. MAR. APR. MAY JUNE JULY AUG. SEPT. OCT. NOV. DEC.
1935
JAN. FEB. MAR. APR. MAY

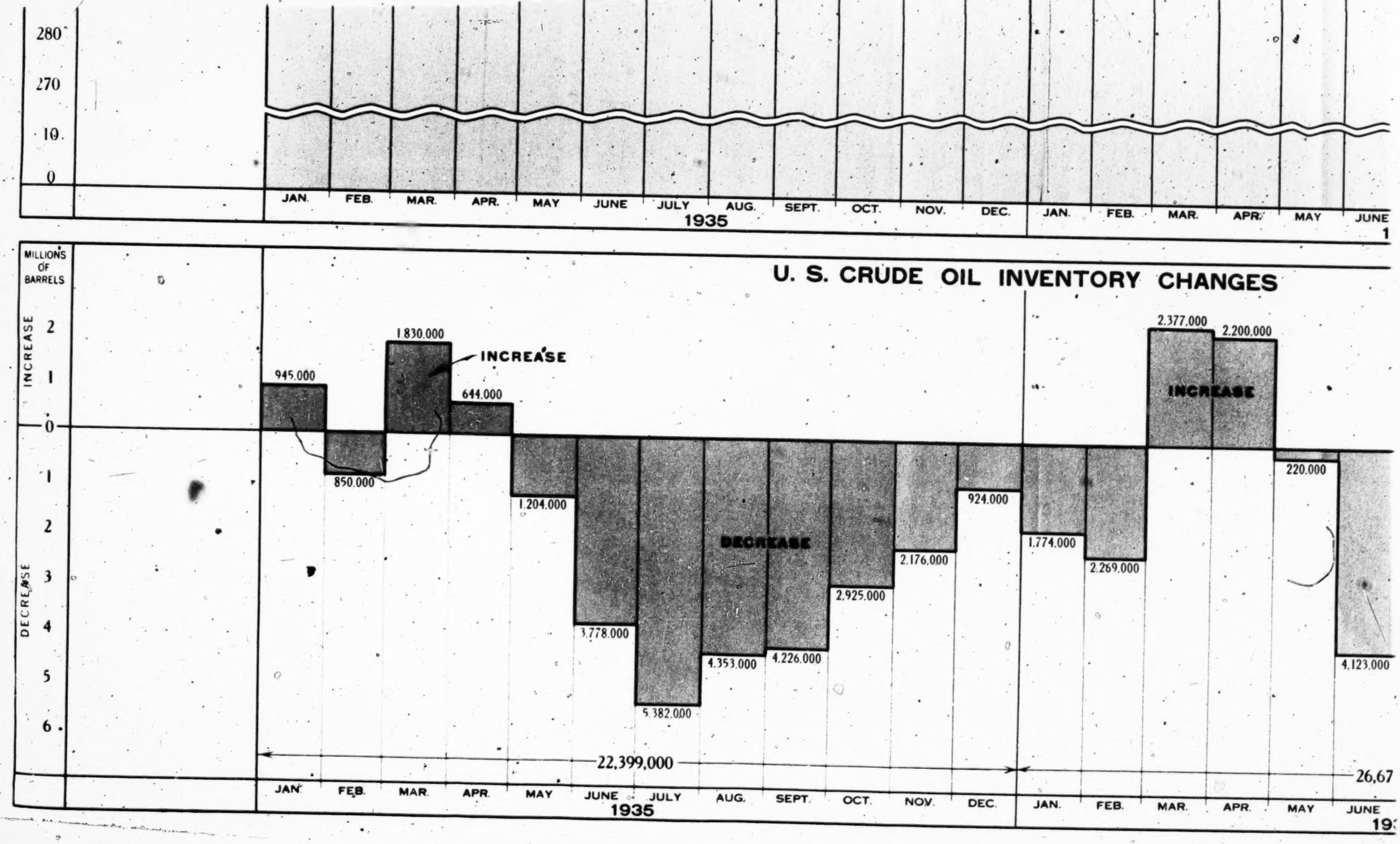

MILLIONS OF BARRELS
340
330
320
310
300
290
280
270
10
0
U. S. CRUDE OIL INVENTORIES
END OF EACH MONTH
338,199,000
337,349,000
339,179,000
339,823,000
338,619,000
334,841,000
329,459,000
325,106,000
320,880,000
317,955,000
315,779,000
314,855,000
313,081,000
310,812,000
313,189,000
315,389,000
315,169,000
JAN. FEB. MAR. APR. MAY JUNE JULY AUG. SEPT. OCT. NOV. DEC.
1935
JAN. FEB. MAR. APR. MAY

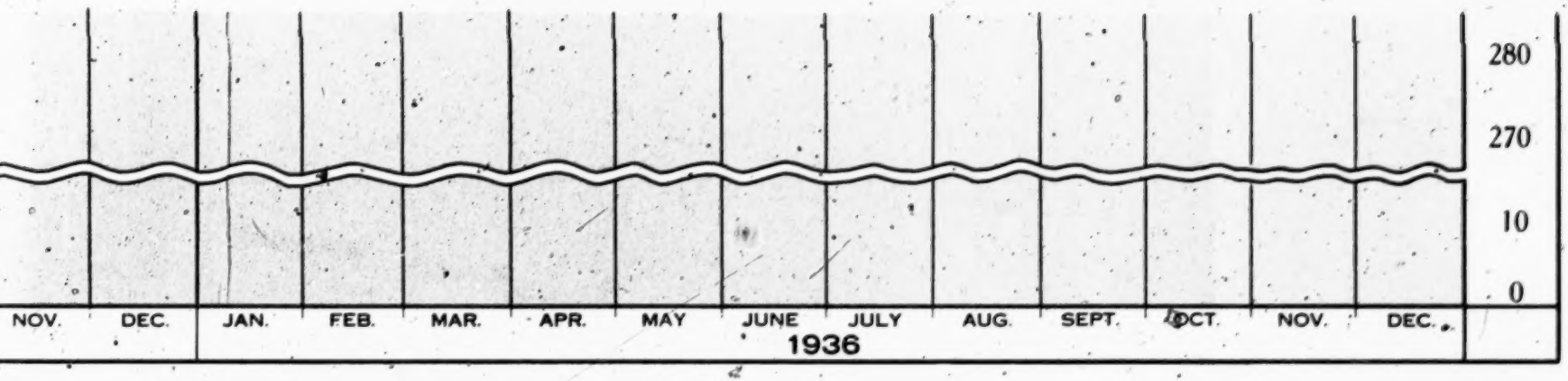

MILLIONS OF BARRELS
INCREASE
2
1
U. S. CRUDE OIL INVENTORY CHANGES
945,000
1,830,000
INCREASE
644,000
2,377,000
2,200,000
INCREASE


RECOMMENDED PRODUCTION YEAR 1936 - 1,030,176,000 BARRELS
ACTUAL PRODUCTION YEAR 1936 - 1,098,516,000 BARRELS
20
10
0
NOV.
DEC.
JAN.
FEB.
MAR.
APR.
MAY
JUNE
JULY
AUG.
SEPT.
OCT.
NOV.
DEC.
1936


CRUDE OIL INVENTORIES
END OF EACH MONTH
MILLIONS OF BARRELS
340
330
320
310
300
290
280
270
10
0
315,779,000
314,855,000
313,081,000
310,812,000
313,189,000
315,389,000
315,169,000
311,046,000
306,390,000
301,757,000
295,693,000
292,271,000
288,998,000
288,184,000
NOV.
DEC.
JAN.
FEB.
MAR.
APR.
MAY
JUNE
JULY
AUG.
SEPT
OCT
NOV.
DEC.
1936


DE OIL INVENTORY CHANGES
MILLIONS OF BARRELS
2
1
INCREASE
2,377,000
2,200,000
INCREASE


280
270
10
0
JAN.
FEB.
MAR.
APR.
MAY
JUNE
JULY
AUG.
SEPT.
OCT.
NOV.
DEC.
1935
JAN.
FEB.
MAR.
APR.
MAY
JUNE
1
U. S. CRUDE OIL INVENTORY CHANGES
MILLIONS OF BARRELS
INCREASE
DECREASE
2
1
0
1
2
3
4
5
6
945,000
850,000
1,830,000
644,000
1,204,000
3,778,000
5,382,000
4,353,000
4,226,000
2,925,000
2,176,000
924,000
2,377,000
2,200,000
1,774,000
2,269,000
220,000
4,123,000
INCREASE
DECREASE
22,399,000
26,67
JAN.
FEB.
MAR.
APR.
MAY
JUNE
JULY
AUG.
SEPT.
OCT.
NOV.
DEC.
1935
JAN.
FEB.
MAR.
APR.
MAY
JUNE
19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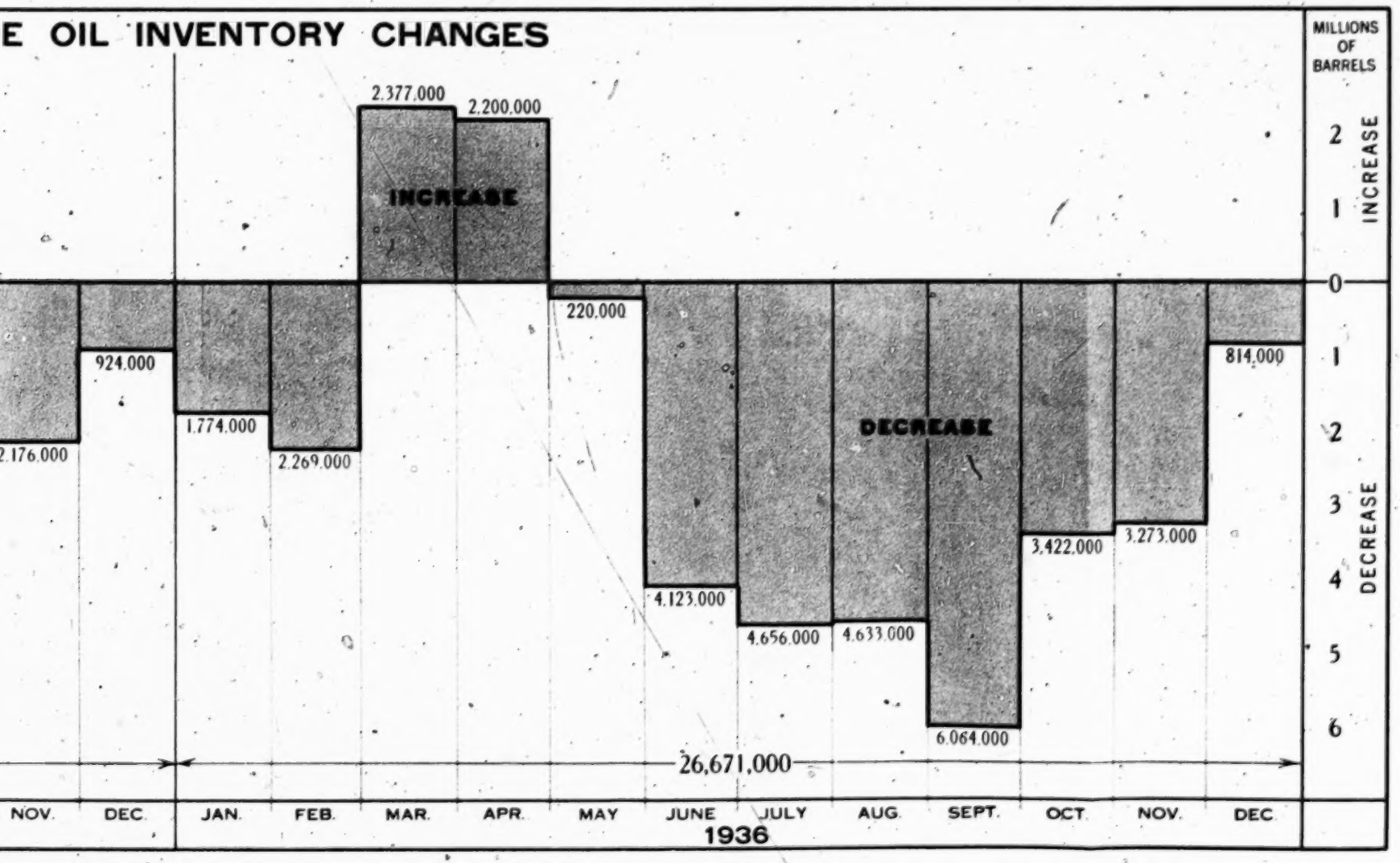
E OIL INVENTORY CHANGES
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1936

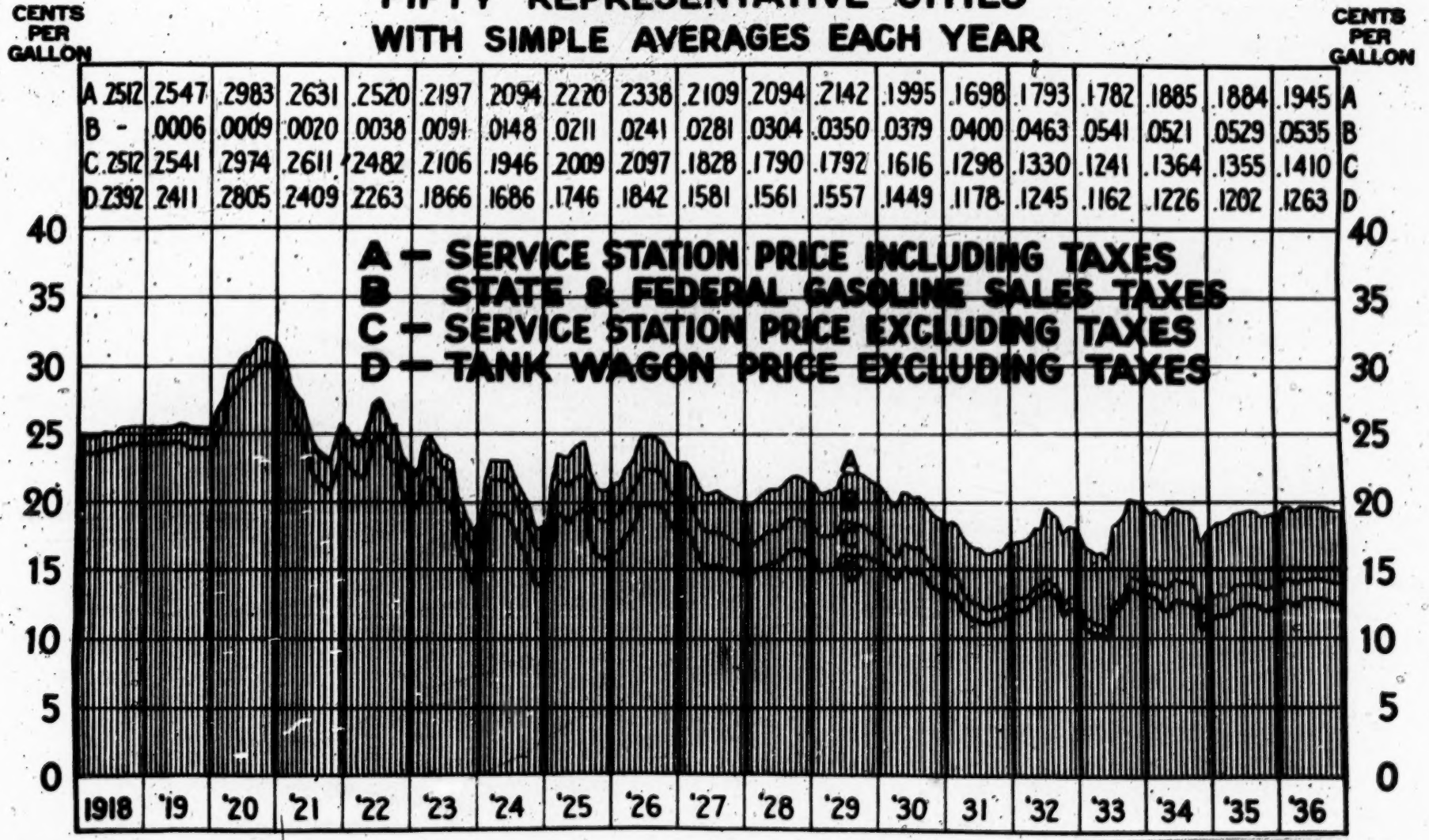
GASOLINE PRICES 1918-1936

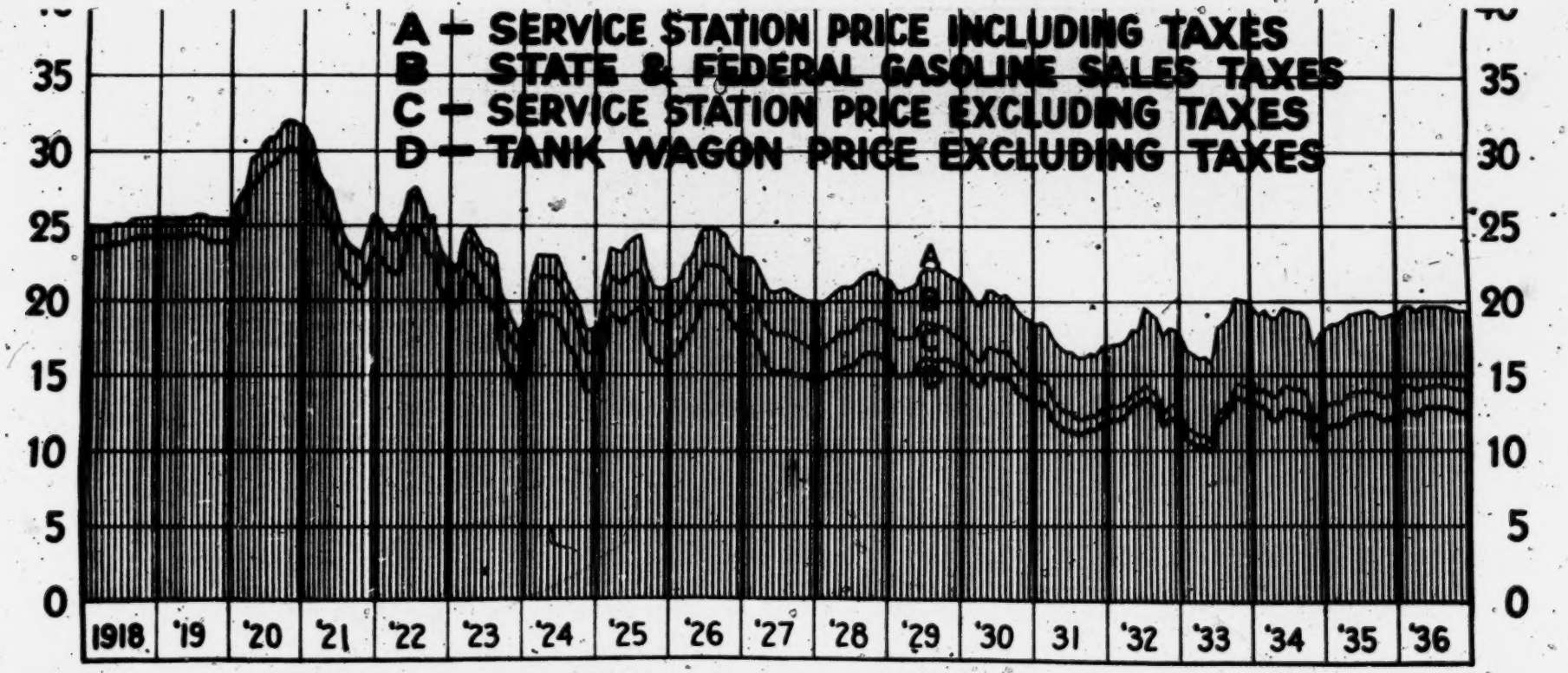
OF THE MAJOR MARKETING COMPANIES

AVERAGE U. S.

FIFTY REPRESENTATIVE CITIES

WITH SIMPLE AVERAGES EACH YEAR

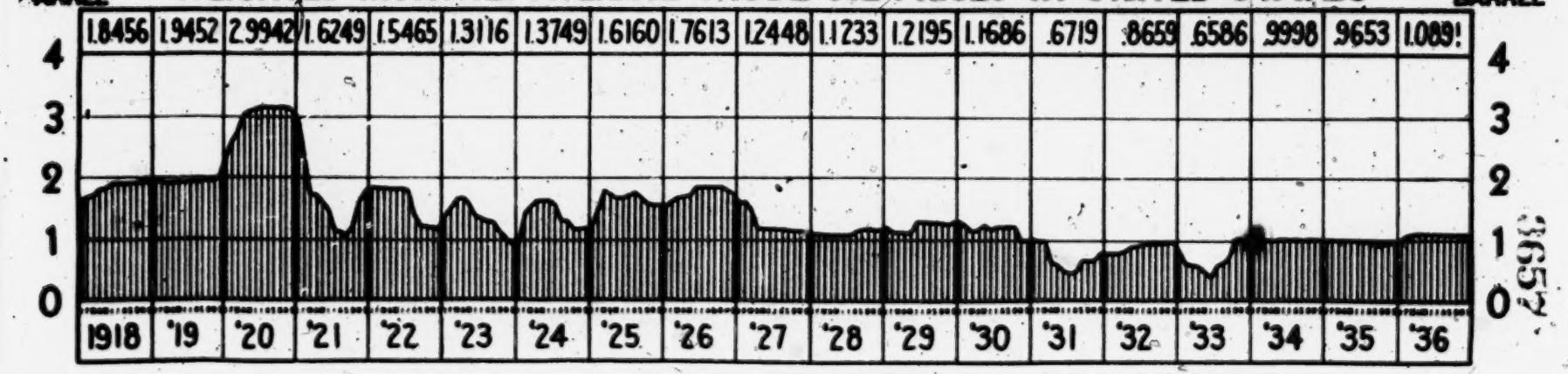




DOLLARS PER BARREL

WEIGHTED MONTHLY AVERAGE CRUDE OIL PRICES IN UNITED STATES

DOLLARS PER BARREL

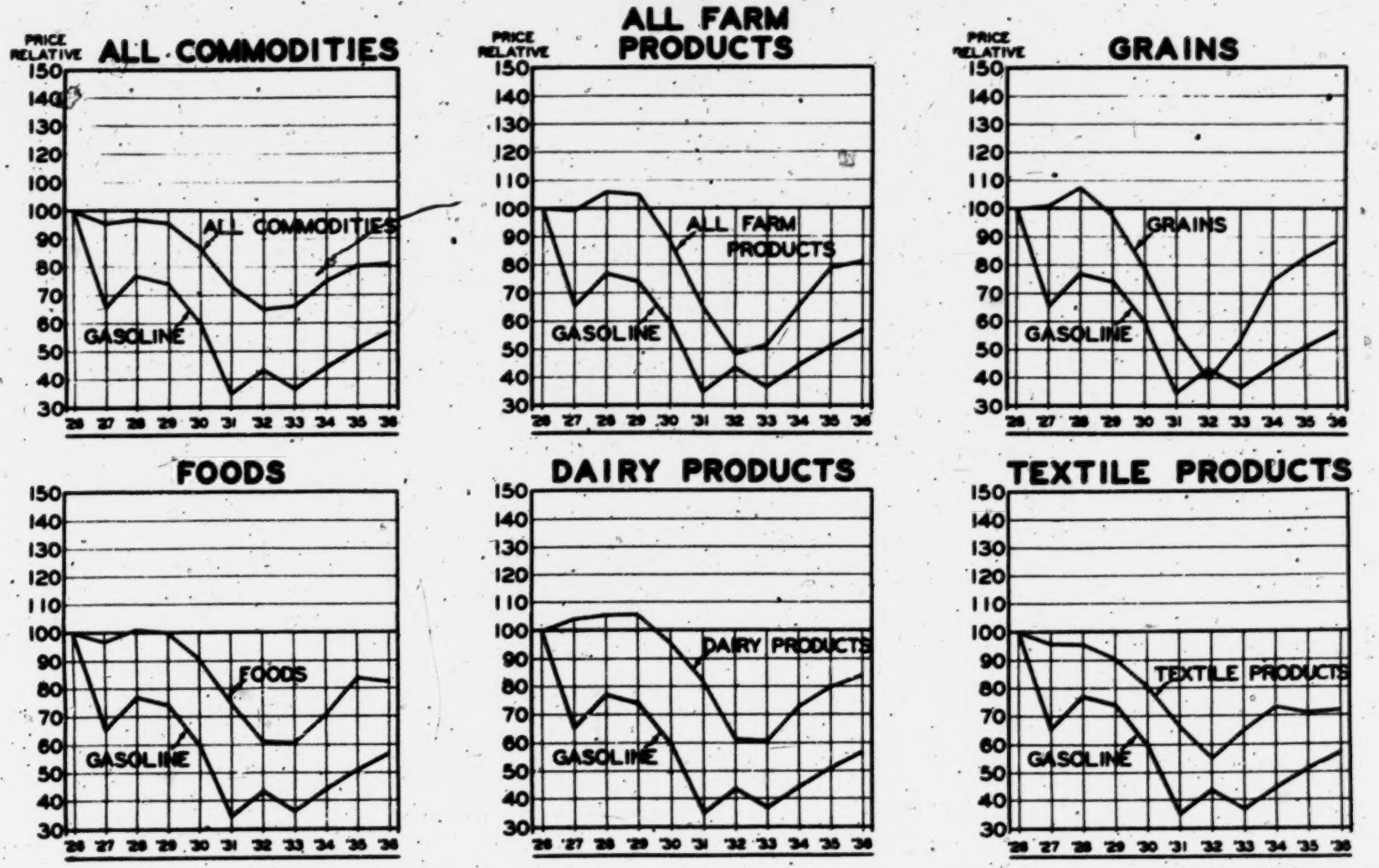


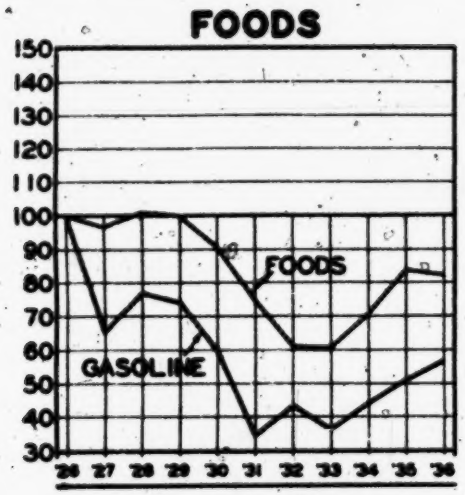
3657

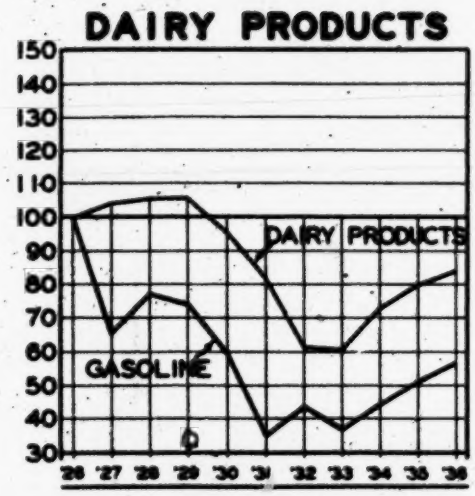
WHOLESALE PRICE RELATIVES

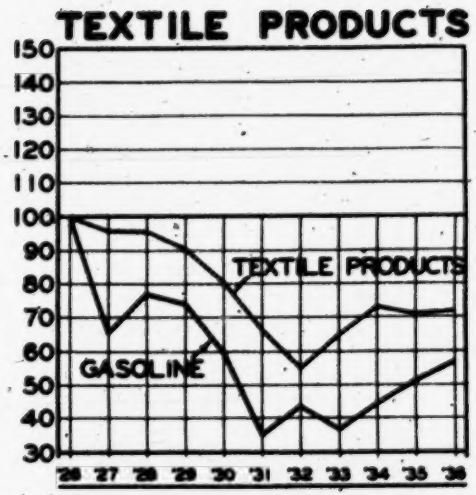
GASOLINE AND OTHER COMMODITIES

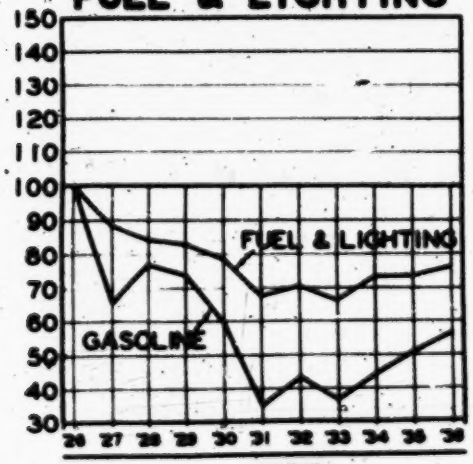
1926-1936 BY YEARS (1926=100)

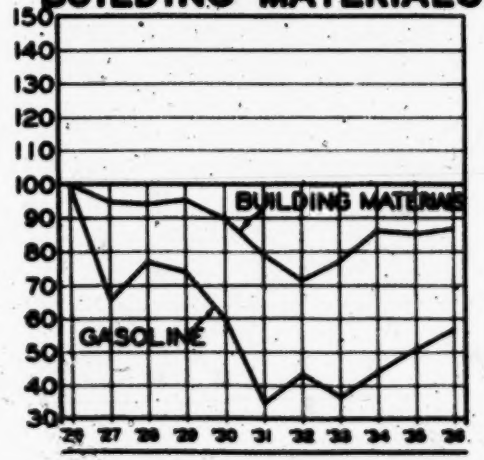


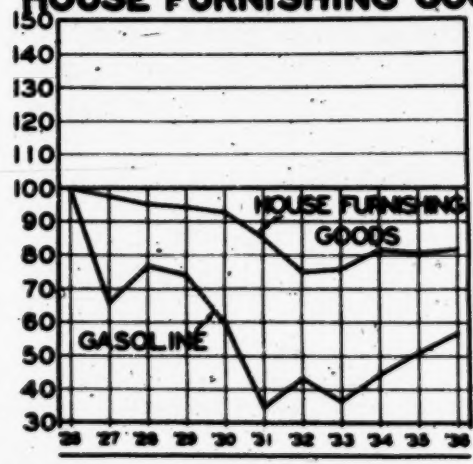










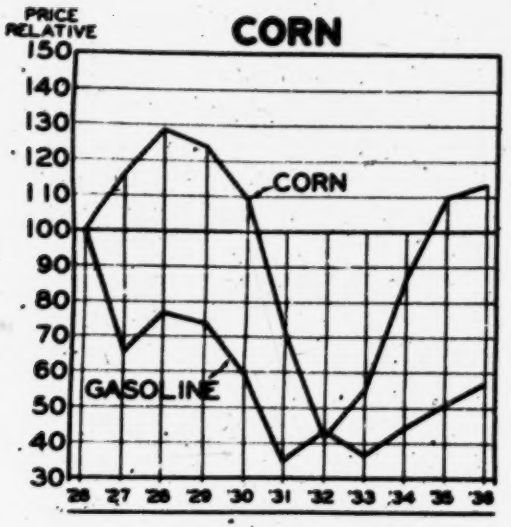


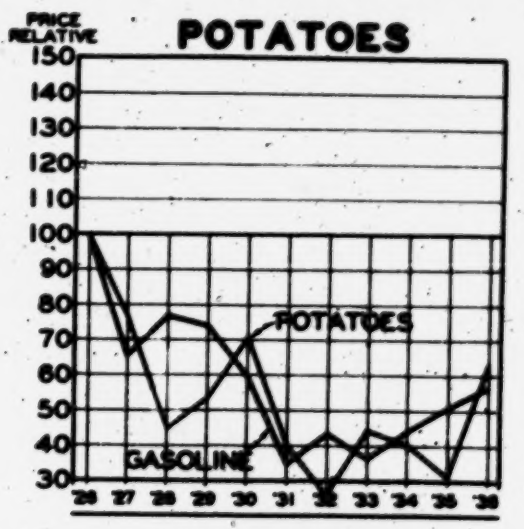
SOURCE:-
1929-1935 - U.S. DEPT. OF LABOR (SEE 1936 SUPPLEMENT - SURVEY OF CURRENT BUSINESS, PAGES 12-13-14-10)
1936 " " " " (SEE WHOLE PRICES - JUNE, 1937 - PAGES 1,)-13-19-23-24-29-30)

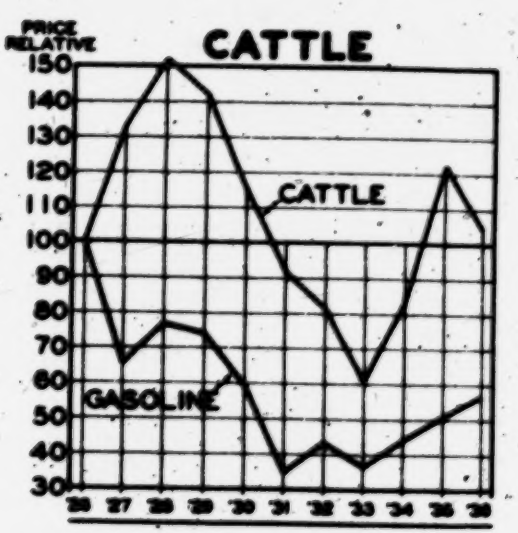
1936

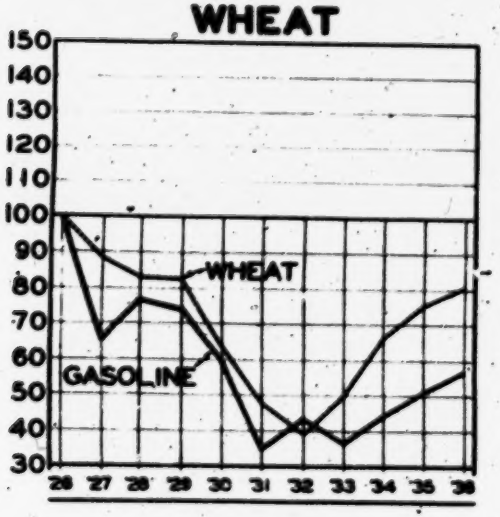
GASOLINE AND INDIVIDUAL COMMODITIES

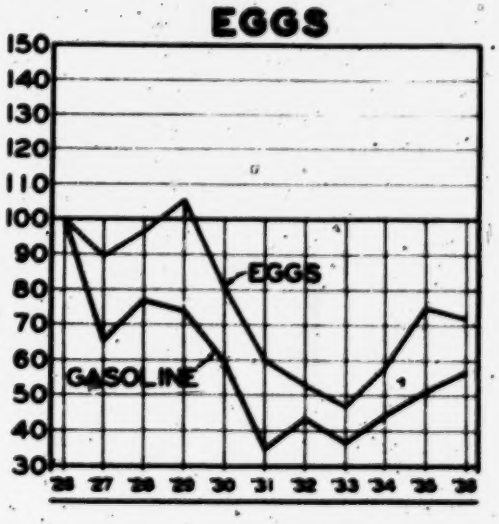
1926-1936 BY YEARS (1926=100)

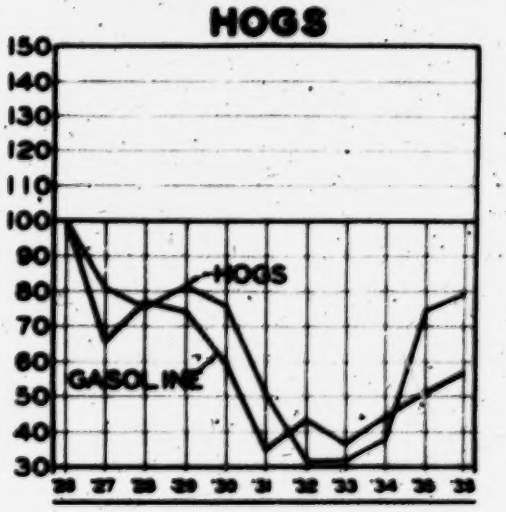


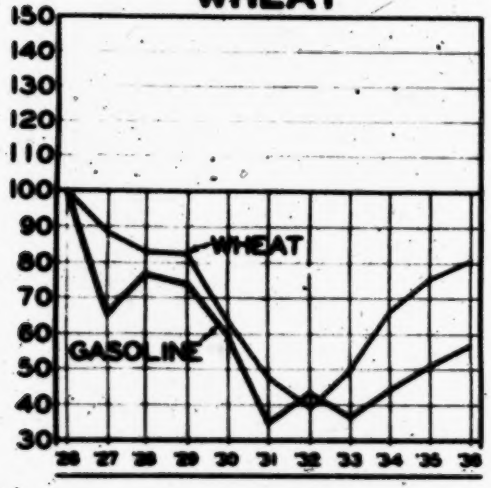


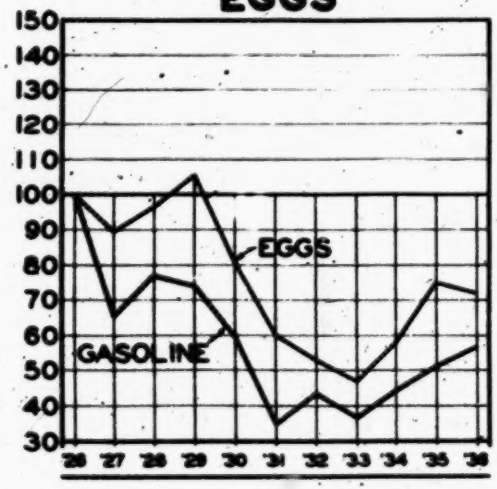


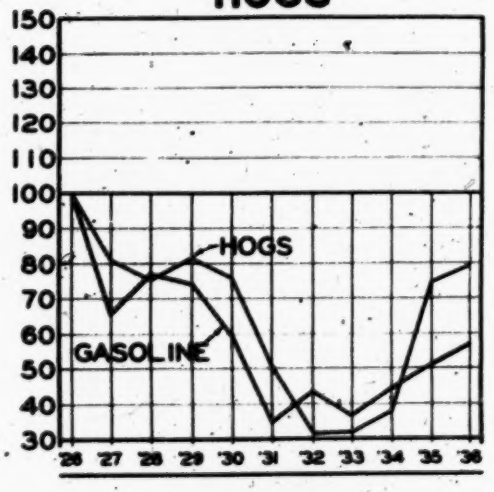


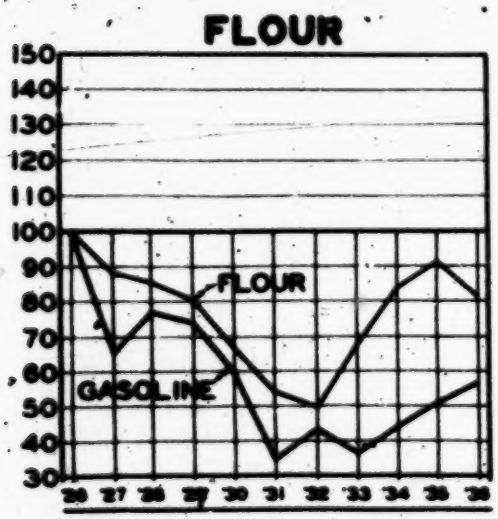






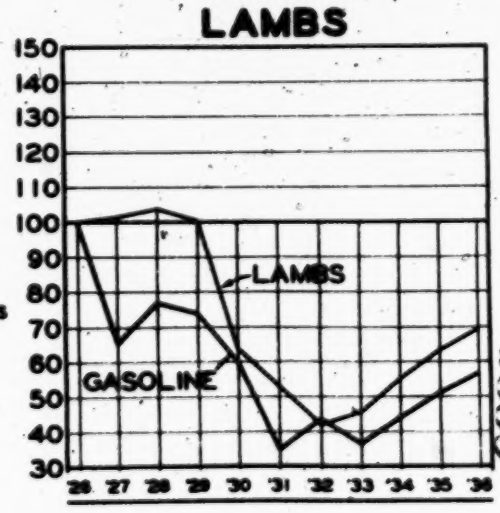






SOURCE:- U. S. DEPARTMENT OF LABOR

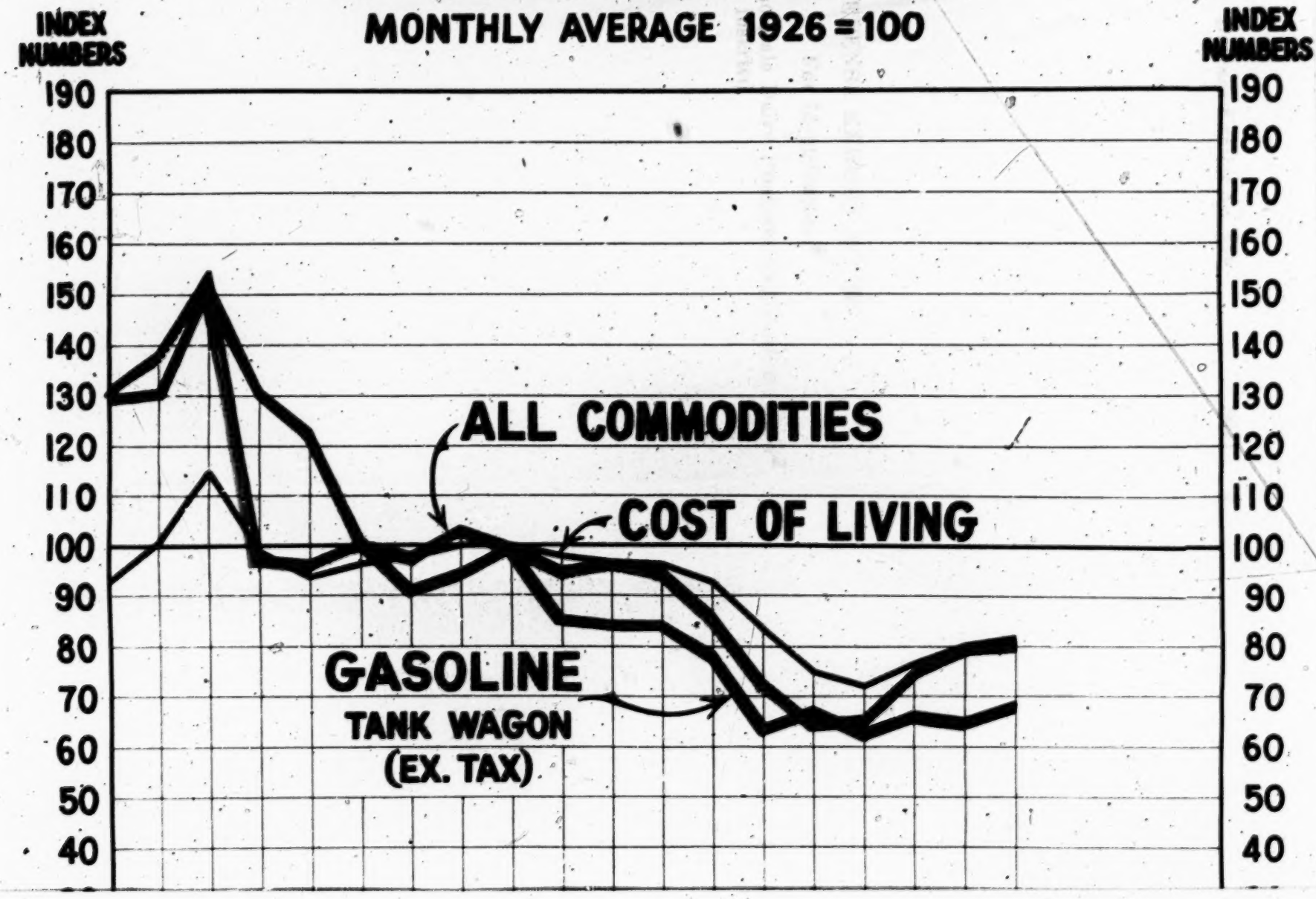
1926 TO 1930:- STATISTICAL ABSTRACT OF U.S. 1931, PAGE 338
1931 TO 1935:- STATISTICAL ABSTRACT OF U.S. 1936, PAGE 301
1936:- WHOLESALE PRICES JUNE, 1937, PAGES 11-12-13-15
GASOLINE:- SURVEY OF CURRENT BUSINESS & WHOLESALE PRICES

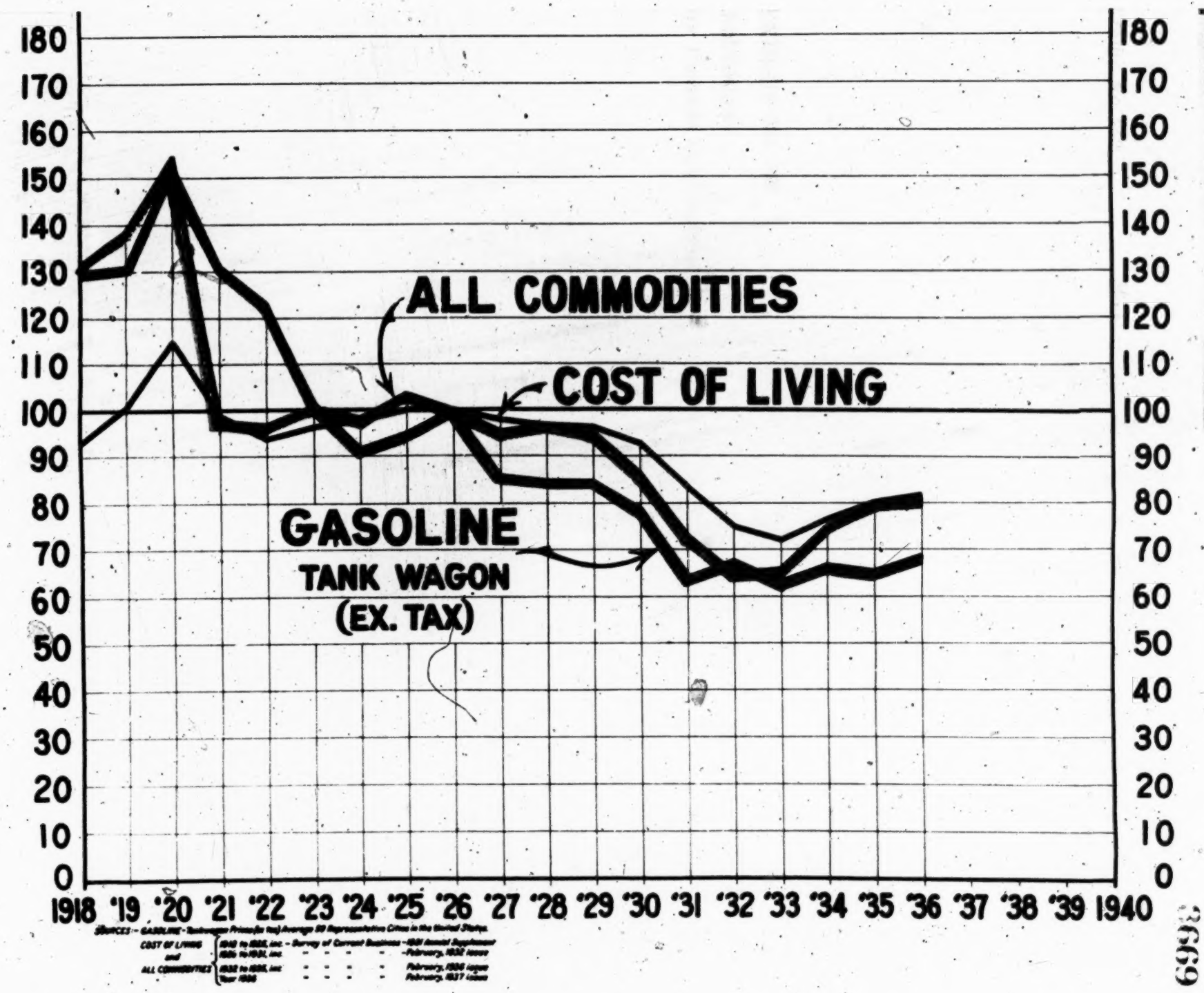


3665

EXHIBIT NO. 958

INDEX OF GASOLINE PRICES COMPARED TO COST OF LIVING AND WHOLESALE PRICES OF ALL COMMODITIES IN THE UNITED STATES





SOURCES -- GASOLINE - Bureau of Foreign and Domestic Commerce Average 50 Representative Cities in the United States.

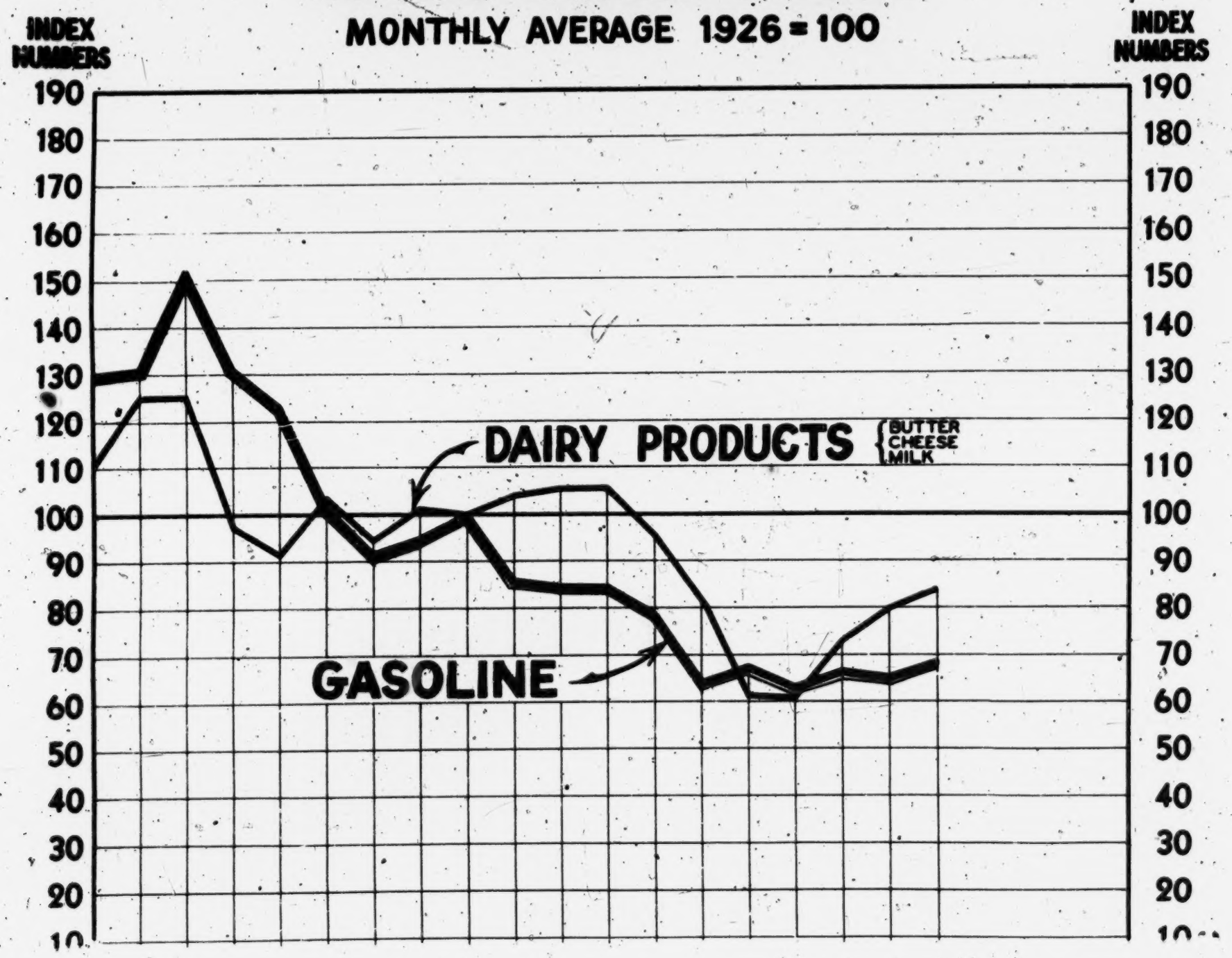
COST OF LIVING and ALL COMMODITIES: 1918 to 1935, inc. -- Survey of Current Business -1937 Annual Supplement; 1936 to 1937, inc. -- February, 1938 issue

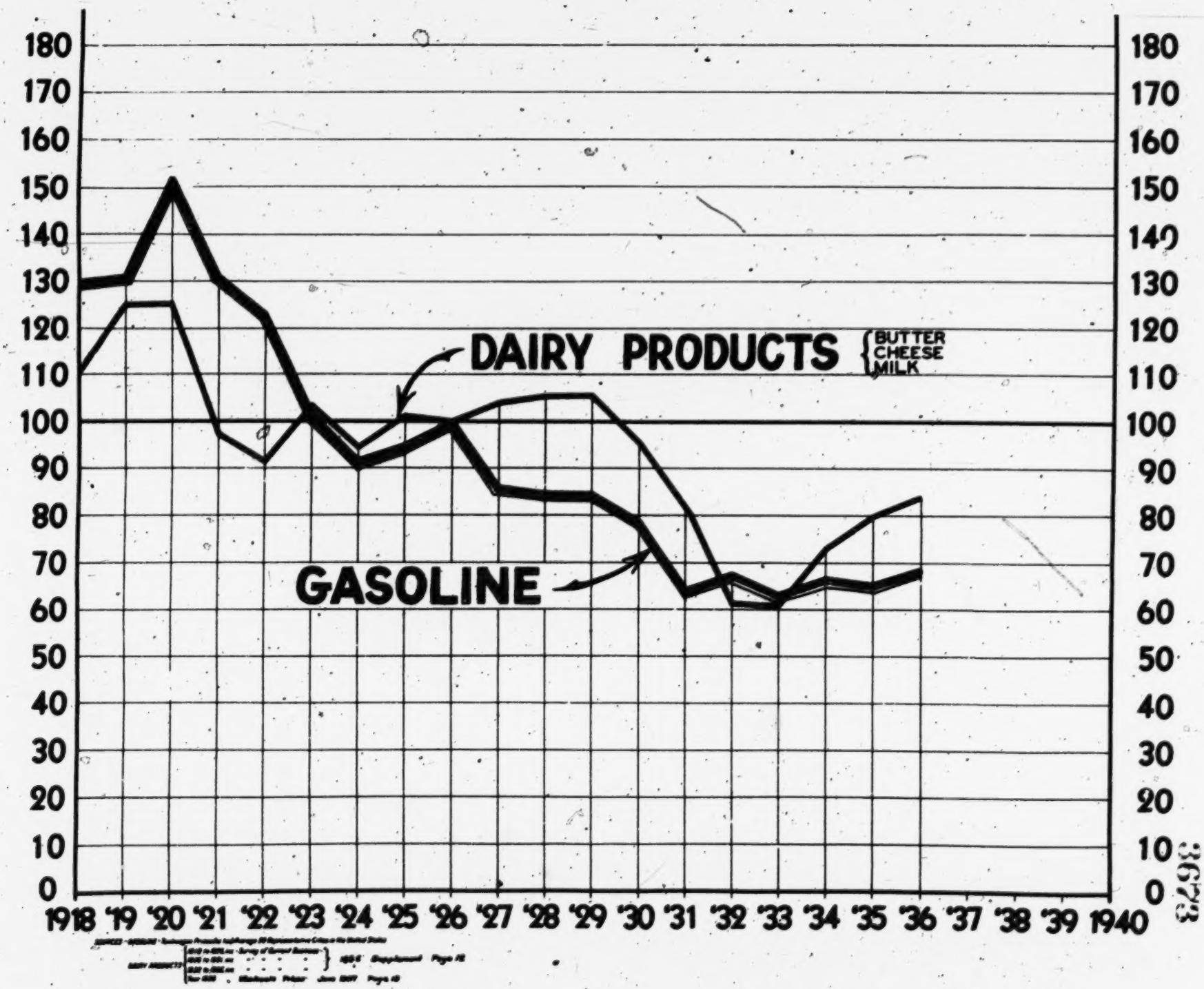
ALL COMMODITIES: 1932 to 1935, inc. -- February, 1936 issue; Year 1936 -- February, 1937 issue

6998

INDEX OF WHOLESALE DAIRY PRODUCTS PRICES AND GASOLINE TANK WAGON PRICES (EX. TAX) IN THE UNITED STATES

MONTHLY AVERAGE 1926 = 100

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DAIRY PRODUCTS
BUTTER
CHEESE
MILK
GASOLINE
1918 '19 '20 '21 '22 '23 '24 '25 '26 '27 '28 '29 '30 '31 '32 '33 '34 '35 '36 '37 '38 '39 1940

38678

THE DERBY OIL COMPANY
Wichita, Kansas

Gasoline Production & Sales (Gallons)

	Inventory	Gasoline Produced	Casinghead Purchases	Total Production	O/S— Purchases	Total	Refinery Sales	McPherson Sales	Sales of O/S Purchases	Total Sales
1934										
Jan.	3,117,594	2,090,285	272,696	2,362,981	24,776	2,387,757	2,442,999	711,202	24,734	3,178,935
Feb.		3,158,949	607,799	3,766,748		3,766,748	1,894,111	639,313		2,533,424
Mar.		2,948,044	500,225	3,448,269		3,448,269	2,031,950	839,145		2,871,095
April		2,881,125	236,598	3,117,723		3,117,723	2,232,080	844,162		3,076,242
May		3,592,156	339,308	3,931,464		3,931,464	2,788,094	961,704		3,749,798
June		2,957,718	312,595	3,270,313		3,270,313	3,523,400	927,045		4,450,445
July		3,610,549	349,285	3,959,834	Mc 198,918	4,158,752	3,104,192	960,465		4,064,657
Aug.		2,999,245	263,651	3,262,896		3,262,896	3,860,960	842,007		3,702,967
Sept.		3,393,075	250,846	3,643,921		3,643,921	3,042,686	835,938		3,878,624
Oct.		2,794,386	309,854	3,104,240		3,104,240	2,885,331	862,123		3,747,454
Nov.		3,352,687	491,853	3,844,540		3,844,540	2,159,360	689,673		2,849,033
Dec.		1,806,989	502,654	2,309,643		2,309,643	2,057,509	746,442		2,803,951
		35,585,208	4,437,364	40,022,572	223,694	40,246,266	31,022,672	9,859,219	24,734	40,906,625
1935										
Jan.	2,320,156	3,827,323	371,147	4,198,470		4,198,470	2,103,975	892,070		2,996,045
February		2,930,866	395,323	3,326,189		3,326,189	2,178,918	871,038		3,049,956
March		2,558,813	507,670	3,066,483		3,066,483	2,475,731	1,015,369		3,491,100
April		3,198,468	408,104	3,606,572		3,606,572	2,604,075	1,086,693		3,690,768
May		3,576,251	236,252	3,812,503		3,812,503	2,490,370	1,121,021		3,611,401
June		3,441,692	186,305	3,627,997		3,627,997	3,195,137	1,296,719		4,491,856
July		4,105,543	231,358	4,336,901	25,374	4,362,275	3,474,243	1,690,422	25,374	5,190,036
August		3,957,474	231,422	4,188,896	Mc 235,136 70,119	4,494,151	2,952,626	1,571,645	70,119	4,594,390

3676 Defense Exhibit No. 960.

1935										
Sept.		3,247,224	469,671	3,716,895	Mc 454,960 30,583	4,202,438	3,000,946	1,369,570	30,583	4,401,099
Oct.		3,706,138	456,592	4,162,730	Mc 253,756 11,290	4,427,776	2,548,077	1,216,675	11,290	3,776,042
Nov.		3,283,146	665,512	3,948,658	Mc 53,354	4,002,012	1,940,416	1,105,944		3,046,360
Dec.		2,868,331	148,137	3,016,468	Mc 82,174	3,098,642	2,096,812	818,247		2,915,059
		40,701,269	4,307,493	45,008,762	1,216,746	46,225,508	31,061,326	14,055,423	137,366	45,254,115
1936										
Jan.	3,069,207	3,273,764	355,163	3,628,927		3,628,927	2,328,803	828,249		3,157,052
Feb.		2,495,756	266,828	2,762,584		2,762,584	2,034,072	657,489		2,691,561
Mar.		3,084,450	392,827	3,477,277	Mc 40,889	3,518,166	2,736,851	1,027,303		3,764,154
April		1,856,229	498,538	2,354,767	Mc 8,093 227,664	2,590,524	2,464,815	1,032,871	8,093	3,505,779
May		3,352,601	307,404	3,660,005	Mc 48,343	3,708,348	2,616,948	1,120,058		3,737,006
June		4,320,743	392,487	4,713,230	Mc 23,946	4,737,176	3,641,596	1,444,892		5,086,488
July		4,213,876	346,204	4,560,080	Mc 262,161	4,822,241	3,267,928	1,393,742		4,661,670
Aug.		3,804,555	228,759	4,033,314		4,033,314	2,887,363	1,248,296		4,135,659
Sept.		3,673,582	330,407	4,003,989		4,003,989	3,080,607	1,186,373		4,266,980
Oct.		3,924,252	497,747	4,421,999		4,421,999	2,872,541	1,192,494		4,065,035
Nov.		3,510,578	477,599	3,988,177		3,988,177	2,548,364	1,031,773		3,580,137
Dec.		3,664,959	394,637	4,059,596		4,059,596	2,723,935	1,010,474		3,734,409
	2,653,073	41,175,345	4,488,600	45,663,945	611,096	46,275,041	33,203,823	13,174,014	8,093	46,385,930

5926 **DEFENSE EXHIBIT NO. 961.**

5927 It is hereby stipulated that C. G. Stokes, Chief Accountant of Olney Oil and Refining Company, of Wichita Falls, Texas, if called as a witness in the above entitled action, would testify that the quantities of gasoline manufactured and sold by Olney Oil and Refining Company, by months from January 1, 1934 to December 31, 1936, inclusive, as reflected by the books and records of Olney Oil and Refining Company, are set forth in Exhibit A hereto annexed.

It is further stipulated that sales of gasoline to major companies defendants in the above entitled action, and to major companies not defendants in the above entitled action, in each of the years 1934 to 1936 inclusive, are as set forth at the foot of said exhibit.

As so stipulated, said figures are received in evidence in the above entitled action without objection.

5928 Olney Oil and Refining Company
Wichita Falls, Texas

1934	Gasoline Production (In Gallons)	Gasoline Sales
January	1,155,601	1,883,902
February	1,384,909	1,201,325
March	886,576	881,468
April	914,232	1,820,550
May	1,121,791	1,185,200
June	797,194	813,960
July	816,134	863,866
August	880,990	819,903
September	925,672	970,237
October	782,855	483,931
November	431,296	660,458
December	783,094	761,590
Total 1934	10,880,344	11,546,390

1935	Gasoline Production (In Gallons)	Gasoline Sales
January	497,427	387,154
February	745,770	653,198
March	484,600	669,900
April	525,862	638,251
May	992,831	931,725
June	1,408,072	1,431,500
July	1,197,752	1,193,435
August	1,279,409	1,283,114
September	927,565	931,547
October	911,932	944,766
November	873,857	870,944
December	841,661	842,838
Total 1935	10,686,738	10,778,372
1936		
January	883,237	908,110
February	844,353	663,032
March	865,183	818,261
April	868,835	796,501
May	965,682	921,975
June	988,969	1,137,567
July	1,060,454	1,086,234
August	1,343,697	1,398,155
September	860,341	939,370
October	934,550	905,077
November	876,265	879,968
December	1,025,678	779,886
Total 1936	11,537,244	11,234,136

	To Major Defd'ts.	To Other Majors
1934	3,967,186	374,687
1935	4,370,103	373,609
1936 (to 9/30)	6,665,371	40,210

5929 **DEFENSE EXHIBIT NO. 962.**

5930 It is hereby stipulated that J. P. Dyer, Accountant employed by Bell Oil and Gas Company of Tulsa, Oklahoma, if called as a witness in the above entitled action, would testify that the quantities of gasoline manufactured and sold by Bell Oil and Gas Company by months from January 1, 1934, to December 31, 1936, inclusive, as reflected by the books and records of Bell Oil and Gas Company, are as set forth in Exhibit A, hereto annexed; and would further testify that according to his estimate thirty per cent (30%) of said quantities of gasoline sold by the company during each of said years constituted truck sales.

As so stipulated, said figures are received in evidence in the above entitled action without objection.

EXHIBIT A.

5931

BELL OIL & GAS COMPANY

Monthly Production and Sale of Gasoline in Barrels and Gallons—Grandfield Refinery

January 1, 1934 to December 31, 1936

	Production		Sales	
	Barrels	Gallons	Barrels	Gallons
1934				
January	45,458	1,909,236	47,453	1,993,026
February	46,752	1,963,584	43,678	1,834,476
March	53,061	2,228,562	40,807	1,713,894
April	56,965	2,392,530	58,188	2,443,896
May	55,676	2,338,392	52,886	2,221,212
June	48,244	2,026,248	46,720	1,962,240
July	49,320	2,071,440	40,762	1,712,004
August	35,008	1,470,336	31,676	1,330,392
September	48,022	2,016,924	43,258	1,816,836
October	52,578	2,208,276	48,378	2,031,876
November	50,325	2,113,650	42,042	1,765,764
December	33,954	1,426,068	30,604	1,285,368
Totals—1934	575,363	24,165,246	526,452	22,110,984
1935				
January	52,519	2,205,798	46,212	1,940,904
February	54,118	2,272,956	55,768	2,342,256
March	61,008	2,562,336	51,257	2,152,794
April	64,150	2,694,300	59,978	2,519,076
May	56,053	2,354,226	47,261	1,984,962
June	56,848	2,387,616	58,387	2,452,254
July	59,149	2,484,258	57,117	2,398,914
August	65,196	2,738,232	52,573	2,628,066
September	53,092	2,229,864	45,471	1,909,782
October	62,291	2,616,222	61,237	2,571,954
November	65,366	2,753,772	65,450	2,748,900
December	66,895	2,809,590	63,969	2,686,698
Totals—1935	716,885	30,109,170	674,680	28,336,560
1936				
January	66,285	2,783,970	58,231	2,445,702
February	54,495	2,288,790	44,727	1,878,534
March	65,251	2,740,542	74,471	3,127,782
April	62,921	2,642,682	63,757	2,677,794
May	71,522	3,003,924	69,063	2,901,486
June	61,238	2,571,996	60,824	2,554,608
July	64,778	2,720,676	58,547	2,458,974
August	67,387	2,830,254	65,902	2,767,884
September	67,816	2,848,272	60,111	2,524,662
October	69,988	2,519,496	69,914	2,936,388
November	64,105	2,692,410	64,067	2,690,814
December	64,518	2,709,756	59,057	2,480,394
Totals—1936	770,304	32,352,768	748,691	31,445,022

5932 **DEFENSE EXHIBIT NO. 963.**

5933 **It is hereby stipulated that William E. Conway, Accountant employed by Shamrock Oil and Gas Corporation if called as a witness in the above entitled action, would testify that the quantities of gasoline manufactured and sold by Shamrock Oil and Gas Company, by months from January 1, 1934, to December 31, 1936, inclusive, as reflected by the books and records of Shamrock Oil and Gas Corporation, are as set forth in Exhibit A, hereto annexed.**

As so stipulated, said figures are received in evidence in the above entitled action without objection.

5934 **SHAMROCK OIL AND GAS CORPORATION**

Monthly Gasoline Production and Sales

January 1st, 1934 through December 31, 1936

	Gasoline Production		Gasoline Sales	
	Barrels	Gallons	Barrels	Gallons
1934				
January	5,060.38	212,535.96	7,599.38	319,173.96
February	5,103.09	214,329.78	4,615.09	193,833.78
March	8,437.81	354,388.02	6,048.81	254,050.02
April	9,187.17	385,861.14	10,803.17	453,733.14
May	21,033.74	883,417.08	15,453.74	649,057.08
June	27,422.55	1,151,747.10	33,603.55	1,411,349.10
July	26,064.77	1,094,720.34	17,735.77	744,902.34
August	12,483.07	524,288.94	15,207.07	638,696.94
September	22,684.45	952,746.90	24,170.45	1,015,158.90
October	11,682.29	490,656.18	15,804.24	663,778.08
November	20,683.16	868,692.72	16,114.53	676,810.26
December	22,733.06	954,788.52	26,393.33	1,108,519.86
	192,575.54	8,088,172.68	193,549.13	8,129,063.46
1935				
January	25,894.12	1,087,553.04	19,911.12	836,267.04
February	24,731.07	1,038,704.94	28,827.07	1,210,736.94
March	29,417.89	1,235,551.38	28,072.89	1,179,061.38
April	32,052.83	1,346,218.86	34,070.83	1,430,974.86
May	29,007.45	1,218,312.90	29,177.45	1,225,452.90
June	26,956.26	1,132,162.92	28,195.26	1,184,200.92
July	24,949.00	1,047,858.00	24,439.00	1,026,438.00
August	23,085.50	969,591.00	20,029.50	841,239.00
September	27,298.74	1,146,547.08	28,137.74	1,181,785.08
October	27,683.62	1,162,712.04	23,765.62	998,156.04
November	24,471.92	1,027,820.64	22,535.92	946,508.64
December	23,076.36	969,207.12	27,358.36	1,149,051.12
	318,624.76	13,382,239.92	314,520.76	13,209,871.92
1936				
January	20,618.62	865,982.04	20,446.62	858,758.04
February	12,429.26	522,028.92	15,090.26	633,790.92
March	26,796.55	1,125,455.10	18,522.55	777,947.10
April	22,158.64	930,662.88	19,620.64	824,066.88
May	31,187.98	1,309,895.16	19,566.98	821,813.16
June	34,837.83	1,463,188.86	43,906.83	1,844,086.86
July	46,588.43	1,956,714.06	40,506.43	1,701,270.06
August	26,938.41	1,131,413.22	35,054.41	1,472,285.22
September	39,143.41	1,644,023.22	50,855.41	2,135,927.22
October	29,870.92	1,254,578.64	29,363.92	1,233,284.64
November	26,481.83	1,112,236.86	16,257.83	682,828.86
December	24,575.38	1,032,165.96	25,301.38	1,062,657.96
	341,627.26	14,348,344.92	334,493.26	14,048,716.92

5935 **DEFENSE EXHIBIT NO. 964.**

5936 It is hereby stipulated that James D. Miller, if called as a witness in the above entitled action would testify that the quantities of gasoline manufactured and sold by Champlin Refining Company of Enid, Oklahoma, by months from January 1, 1934, to December 31, 1936, inclusive, are as set forth in Exhibit A hereto annexed.

It is further stipulated that Champlin Refining Company estimates that during the years 1934 to 1936, inclusive, approximately thirty per cent of its total gasoline sales were to its retail department and that of the balance, approximately sixty-five to seventy per cent was sold under contract and the remainder sold in the spot market.

As so stipulated, said figures are received in evidence in the above entitled action without objection.

5937 **EXHIBIT A.**

Champlin Refining Company

	Gasoline Production (In Gallons)	Gasoline Sales
1934		
January	3,881,562	5,237,725
February	3,727,573	3,417,360
March	3,872,594	3,948,600
April	4,033,765	4,703,192
May	4,369,348	4,358,361
June	2,755,283	4,830,669
July	3,546,171	3,714,739
August	6,275,300	4,586,926
September	4,931,325	4,455,175
October	4,997,342	4,387,406
November	4,963,687	3,173,119
December	4,812,612	2,550,490
	52,166,562	49,363,762

	Gasoline Production (In Gallons)	Gasoline Sales
1935		
January	4,351,329	3,475,694
February	3,160,234	4,766,277
March	3,650,987	5,479,101
April	5,348,358	5,110,470
May	4,829,640	4,352,182
June	4,658,238	4,106,891
July	4,722,325	4,993,842
August	5,471,803	4,107,221
September	5,732,755	4,515,134
October	5,809,117	4,574,954
November	4,506,424	3,919,366
December	4,017,066	3,946,595
	56,258,276	53,347,727
1936		
January	4,761,569	4,248,912
February	4,401,260	3,078,153
March	3,025,241	4,753,470
April	4,892,333	4,798,952
May	6,315,747	5,589,999
June	6,884,003	6,944,170
July	8,037,022	7,231,110
August	6,408,855	6,840,944
September	4,627,948	6,984,472
October	6,842,089	6,699,018
November	6,088,792	5,829,644
December	6,174,640	6,101,550
	68,459,499	69,100,394

5938 **DEFENSE EXHIBIT NO. 965.**

5939 It is hereby stipulated that G. E. Dahlen, auditor in charge of the refining and marketing divisions of Danciger Oil and Refineries, Inc., of Tulsa, Oklahoma, if called as a witness in the above entitled action, would testify that the quantities of gasoline manufactured and sold by the Pampa, Texas, plant of Danciger Oil and Refineries, Inc., by months from January 1, 1934 to December 31, 1936, inclusive, as reflected by the books and records of Danciger Oil and Refineries, Inc., are as set forth in Exhibit A hereto annexed.

As so stipulated, said figures are received in evidence in the above entitled action without objection.

5940 **EXHIBIT A.**

Danciger Oil and Refineries, Inc.
Pampa, Texas

	Gasoline Production (In Gallons)	Gasoline Sales
1934		
January	4,597,992	4,759,314
February	4,417,728	3,315,060
March	4,361,742	5,017,110
April	4,060,056	4,028,808
May	4,264,764	4,583,964
June	3,605,028	4,828,782
July	4,495,260	3,441,774
August	3,378,858	4,440,576
September	4,000,206	4,030,404
October	4,125,114	4,405,002
November	3,515,484	2,868,390
December	3,536,904	3,169,194
Total 1934	48,359,136	48,888,378

	Gasoline Production (In Gallons)	Gasoline Sales
1935		
January	2,954,154	3,169,698
February	3,568,908	3,139,248
March	3,522,582	4,650,744
April	3,989,622	3,786,216
May	2,867,844	3,408,594
June	4,027,968	3,642,702
July	4,033,134	4,280,010
August	3,564,288	3,329,046
September	3,391,710	3,436,146
October	2,179,884	2,655,828
November	4,032,336	2,973,600
December	3,995,292	3,345,090
Total 1935	42,127,722	41,816,922
1936		
January	4,416,552	3,519,096
February	2,798,754	2,593,248
March	3,855,726	4,492,572
April	4,234,188	4,672,248
May	2,812,320	3,405,192
June	4,080,972	4,519,032
July	4,168,962	4,922,400
August	4,739,490	3,666,180
September	4,451,916	4,026,918
October	4,178,034	4,464,600
November	4,764,606	4,015,158
December	4,306,806	3,056,760
Total 1936	48,808,326	47,353,404

5941 DEFENSE EXHIBIT NO. 966.

5942 It Is Hereby Stipulated that J. H. Sheehan, chief refinery accountant of Lion Oil Refining Company of El Dorado, Arkansas, if called as a witness in the above entitled action, would testify that the quantities of gasoline manufactured and sold by Lion Oil Refining Company by months from January 1, 1934 to December 31, 1936, inclusive, as reflected by the books and records of Lion Oil Refining Company, are as set forth in Exhibit A hereto annexed;

And would further testify that in his estimate 50% of the Company's production was sold through its own stations during the years 1934 and 1935 and 60% was so sold during the year 1936;

And would further testify that at the present time the Company operates about 80 bulk stations.

5943 EXHIBIT A.

Lion Oil Refining Company
El Dorado, Arkansas

	Gasoline Production (In Gallons)	Gasoline Sales
1934		
January	2,990,106	3,693,270
February	3,112,200	2,942,058
March	3,506,664	3,094,140
April	3,497,172	3,189,270
May	3,925,362	4,306,722
June	3,456,180	3,099,054
July	3,117,072	3,634,764
August	2,850,036	3,560,046
September	3,215,478	3,186,456
October	3,254,160	3,600,030
November	3,655,764	3,481,464
December	3,421,236	3,561,936
Total 1934	40,001,430	41,349,210

	Gasoline Production (In Gallons)	Gasoline Sales
1935		
January	3,626,574	3,009,426
February	3,132,486	3,182,004
March	3,780,210	3,450,342
April	3,659,460	3,439,212
May	3,281,838	3,545,934
June	3,451,560	3,515,694
July	3,705,828	3,516,282
August	3,703,644	4,179,042
September	3,561,600	3,313,674
October	3,776,094	3,617,334
November	3,678,780	3,246,684
December	3,437,196	3,392,172
Total 1935	42,795,270	41,407,800
1936		
January	3,590,286	2,621,766
February	3,278,814	2,151,702
March	3,489,486	2,547,468
April	3,169,572	3,603,768
May	3,790,416	3,531,864
June	3,765,174	4,681,572
July	4,398,786	5,109,468
August	3,624,978	4,657,002
September	3,741,402	4,318,356
October	4,073,034	4,371,990
November	3,690,120	3,725,694
December	4,469,346	3,799,992
Total 1936	45,081,414	45,120,642

5944 **DEFENSE EXHIBIT NO. 967.**

Letterhead of The White House, Washington, D. C.

Mr. C. E. Arnott,
President, Socony-Vacuum Corporation,
Standard Oil Company of New York,
New York City.

My dear Mr. Arnott:

I hereby appoint you a member of the Planning and Coordination Committee of fifteen members, as set up in the Code of Fair Competition for the Petroleum Industry. You were nominated by a group or groups within the industry, as provided in Section 2 of Article VII, of said Code.

I hope that you will be able to serve on this committee.

Sincerely yours,
Franklin D. Roosevelt

5945 **DEFENSE EXHIBIT NO. 968.**

(Extract from document certified by the Department of the Interior to be copy of press release issued by the Department of the Interior on November 14, 1934.)

Address by Honorable Harold L. Ickes, Administrator of the Petroleum Industry and Secretary of the Interior, before the American Petroleum Institute, Dallas, Texas, November 14, 1934, at 2:00 P. M.

* * * *

If each of you will look back over the past year and, without prejudice or passion, compare present conditions with those of the summer of 1933, you will all find definite improvement in the industry as a whole.

I know it might be difficult for some of you to reach such a conclusion. The refiner who has had to buy his crude oil supply at posted prices and sell his products at the levels which have prevailed might be reluctant to admit that there has been any improvement. His lot has been the hardest of all. Most of these refiners have been ex-

tremely patient while waiting for the sun to shine. They may feel that they have been forgotten, but I can assure them that this is not so. Much that has been done during the past several months has had as its particular objective the strengthening of the position of the non-integrated or the partially-integrated refiner. The allocation of gasoline production quotas under the Code and the program for the purchase of distress gasoline both had this as a common purpose. Each of these did its share of good, but the full measure of their accomplishment was not possible because of the "hot" gasoline from East Texas which kept moving into interstate commerce, and because of the price wars which raged in the territory East of the Rockies in the bitter struggle for gallonage.

I realize that East Texas has been an exceedingly popular dumping ground for complaints. It is the land of alibis. It undoubtedly has been blamed for many of the ills of the industry which have had their roots in other soil, but I feel very strongly that East Texas must carry a heavy share of blame for the conditions which weakened the wholesale gasoline market. How could it be otherwise when one of the principal news services of the industry has daily published the fact that gasoline, allegedly manufactured from "hot" crude, could be purchased at a price materially less than that made from legally produced crude?

I came to Dallas with the clear intention of putting all my cards on the table and here go some more of them.

• • • •

5946 **DEFENSE EXHIBIT NO. 969.**

(Certified by the Department of the Interior to be copy of letter dated February 20, 1935, signed by C. E. Arnott and addressed to Charles Fahy.)

26 Broadway
New York

C. E. Arnott **February 20, 1935.**

Mr. Charles Fahy,
Petroleum Administration Board,
Lemon Building, Washington, D. C.

Dear Mr. Fahy:

On my return to New York I find your note of the 11th. I know of the circumstances in connection with the Rhode Island matter and on my next visit to Washington will talk with you about it.

There have been some very important developments in connection with marketing and also in connection with East Texas refiners to which I am giving considerable time and attention.

I am holding a meeting in Chicago Monday and Tuesday, and on Friday of next week I am holding a meeting at Kansas City with the independent group of Mid-continent refiners.

I shall not give you the details of these meetings now but when I visit Washington, which will be quite soon after my return from the West, will tell you all about it.

Yours very truly,
C. E. Arnott

(Handwritten notations):

"Copy sent to Dr. Frey in Chi. office on 2-23-35"
"Noted C. F."

5947 **DEFENSE EXHIBIT NO. 970.**

Telegram

New York, N. Y.
May 1, 1935

H. W. Dodge
The Texas Co.

Petroleum administrator has requested P and C Marketing Committee in near future give him its judgment on the Blazer report and also discuss our protest against his definition of an employee Stop In view of great importance and urgency necessary P and C Marketing Committee meet Washington Thursday morning May ninth ten oclock trust you can be present telegraph reply via Westernunion.

C. E. Arnott

5948 **DEFENSE EXHIBIT NO. 971.**

For Identification.

(Certified by the Department of the Interior to be copy of duplicate original of a telegram dated May 17, 1935, sent by Charles Fahy to C. E. Arnott.)

5949 Petroleum Administration,
Washington, D. C. May 17, 1935

C. E. Arnott
Mayo Hotel
Tulsa, Oklahoma

THANKS VERY MUCH YOUR TELEGRAM RE PENNSYLVANIA SITUATION.

Charles Fahy

5950 **DEFENSE EXHIBIT NO. 972.**

For Identification.

(Certified by the Department of the Interior to be copy of duplicate original of a letter dated May 7, 1935, signed by E. B. Swanson and sent to S. M. Vockel.)

5951 **DEPARTMENT OF THE INTERIOR**
Petroleum Administrative Board
Washington

May 7, 1935

Mr. S. M. Vockel, President,
Waverly Oil Works Company,
54th Street,
Pittsburgh, Pennsylvania.

Dear Mr. Vockel:

I have your letter of May 2 with which you enclosed copy of Mr. Millhiser's letter to the President of the United States and your letter of May 2 to the Federal Reserve Bank of Cleveland, Ohio.

I feel sure you will appreciate that every effort has been made and is being made under the Petroleum Code to make possible the profitable operation of petroleum refineries. Although this objective has been difficult of attainment, considerable progress in that direction has been made during the past several weeks, and it is my understanding that under the present relationship between crude oil prices and the prices for petroleum products most refining companies are able to operate satisfactorily.

Should you come to Washington, I will be glad to take all the time that may be necessary to go over the situation thoroughly with you.

Very truly yours,

E. B. Swanson
Member.
Signed personally May 7 1935

5952 **DEFENSE EXHIBIT NO. 973.**

For Identification.

(Certified by the Department of the Interior to be copy of duplicate original of a letter dated May 17, 1935, signed by E. B. Swanson and sent to James J. Davis.)

5953 DEPARTMENT OF THE INTERIOR
Petroleum Administrative Board
Washington

May 17, 1935

Hon. James J. Davis,
United States Senate.

My dear Senator Davis:

In connection with your telephone call of last Tuesday regarding the situation described by Mr. S. M. Vockel on behalf of his company, the Waverly Oil Works, and other Pennsylvania refiners, I thought you would be interested in learning of the progress to date in the improvement of that situation.

Mr. Vockel and Mr. Willey, his associate, conferred again with Mr. Charles Fahy, Chairman of the Board, and myself and it was agreed that the problem of these refiners should be placed before the Stabilization Committee of the Planning and Coordination Committee which is the industrial authority under the Petroleum Code. Accordingly the following telegram was sent by Mr. Fahy to Mr. C. E. Arnott, Chairman of the Stabilization Committee:

"S. M. Vockel and G. E. Willey officials Waverly Oil Works on behalf own company and other small Pennsylvania refiners yesterday and today presented detailed picture refining situation their section stop Present disparity between Pennsylvania grade crude and refined prices undoubtedly makes impossible continued operation several plants stop Problem there related more to stabilized markets lubricants than gasoline stop Hope you can arrange for prompt consideration this problem by Stabilization Committee, looking both to immediate adjustments as well as long view correction stop Would appreciate your assistance in this situation as it involves plants of long establishment which undoubtedly have not benefited equally with others under stabilization program because of their dependence on lubricants rather than gasoline stop Please wire me as to possibility your undertaking this."

Mr. Arnott was delayed in his arrival at Tulsa, and consequently did not receive the telegram until yesterday, whereupon he sent the following telegram: "Replying your telegram fully realize situation you refer to and
5954 quite agree something must be done. Will go into immediately on my return to New York next week and feel can accomplish something constructive for refiners you mentioned and others interested."

If you wish, I will be glad to keep you informed regarding further developments in this matter.

Sincerely yours,
E. B. Swanson (Signed personally)
For the Board
May 17 1935

5955 DEFENSE EXHIBIT NO. 974.

For Identification.

5956 1—480

UNITED STATES OF AMERICA

DEPARTMENT OF THE INTERIOR
Washington, D. C.

January 5, 1938.

Pursuant to Code 28, Paragraph 661, United States Code, I hereby certify that the annual papers are true copies of the original orders appointing Charles Fahy, as Chairman, and Norman L. Myers, J. Howard Marshall, John W. Frey, E. B. Swanson as Members of the Petroleum Administrative Board, with related taxes, as they appear in the records and files of the Department of the Interior.

In Testimony Whereof, I have hereunto subscribed my name, and caused the seal of the Department of the Interior to be affixed, the day and year first above written.

Harold L. Ickes,
(Seal) *Secretary of the Interior.*

5957 Executive Order

Prohibition of Transportation in Interstate and Foreign Commerce of Petroleum and the Products Thereof Unlawfully Produced or Withdrawn from Storage.

By virtue of the authority vested in me by the Act of Congress, entitled "An Act To encourage national industrial recovery, to foster fair competition, and to provide for the construction of certain useful public works, and for other purposes," approved June 16, 1933 (Public No. 67, 73d Congress), in order to effectuate the intent and purpose of the Congress as expressed in Section 9(c) thereof, and for the purpose of securing the enforcement of my order of July 11, 1933, issued pursuant to said act, I hereby authorize the Secretary of the Interior to exercise all the powers vested in me, for the purpose of enforcing Section 9(c) of said act and said order, including full authority to designate and appoint such agents and to set up such boards and agencies as he may see fit, and to promulgate such rules and regulations as he may deem necessary.

Franklin D. Roosevelt.

The White House,
July 14, 1933.

5958 Executive Order

Administration of the Petroleum Industry

Pursuant to the authority vested in me by section 2 (b) of title I of the Act of June 16, 1933, known as the "National Industrial Recovery Act" (Public No. 67, 73d Cong.), and in accordance with section 2 of article I and section 1 (b) of article VII of the Code of Fair Competition adopted by the petroleum industry and approved by me August 19, 1933, I hereby designate and appoint, for the petroleum industry, the Secretary of the Interior to be Administrator and the Department of the Interior to be the Federal agency, as provided by the aforesaid act and Code of Fair Competition, to exercise on my behalf and in my stead all the functions and powers vested in me, or in any Federal agency, by such act and such Code of Fair Competition.

Franklin D. Roosevelt.

The White House,
August 28, 1933.

5959

Order
Under Code of Fair Competition for the Petroleum Industry as Approved by the President August 19, 1933

There is hereby established a Board to be known as the Petroleum Administrative Board of the Department of the Interior, the functions of which shall be to advise with and make recommendations to the Secretary of the Interior as the Administrator of the Code of Fair Competition for the Petroleum Industry pursuant to Executive Order of August 28, 1933, which Executive Order was pursuant to the provisions of the National Industrial Recovery Act approved June 16, 1933 (Public No. 67, 73d Congress). Said Board shall also perform such administrative functions as may be detailed to it by the Secretary of the Interior, and shall consist of the following:

1. Nathan R. Margold, Chairman,
2. Charles Fahy, Vice-Chairman,
3. Norman L. Meyers, Secretary,
4. J. Howard Marshall,
5. J. Elmer Thomas, Special Technical Adviser.
6. Ed. B. Swanson,
7. John W. Frey.

Harold L. Ickes,
Secretary of the Interior.

September 11, 1933.

5960

DEPARTMENT OF THE INTERIOR

Order No. 3515—Supplemental Washington November 22, 1934.

Maulding Buren, Realty.

The following appointments or status changes, and organization changes, are hereby ordered and approved:

Bureau—Office of the Solicitor

Name	State	Position and Salary	Effective	Ctf. No.
		Changes in Status		
Margold, Nathan R...	N. Y.	Solicitor for the Department of the Interior, P-8, $9000, from Solicitor for the Department of the Interior and Chairman, Petroleum Administrative Board, same grade and salary.	Nov. 22/34	
		Oil Enforcement		
Fahy, Charles.....	N. M.	Chairman, Petroleum Administrative Board, $9000 (gross), Gr. 19, from Vice Chairman, Pet. Admin. Board, $8000 (gross)	—do—	

Harold L. Ickes
Secretary of the Interior

5961

Dep't of the Interior,
Received Nov. 29, 1934 Secy's Office
Appts., Mail & Files

DEPARTMENT OF THE INTERIOR

Order No. 3151—Supplemental Washington September 9, 1933

Maulding Buren, Realty.

The following appointments or status changes, and organization changes, are hereby ordered and approved:

Bureau—Office of the Solicitor (Oil Enforcement)

Name	State	Position and Salary	Effective	Ctf. No.
		Appointments		
Thomas, J. Elmer.....	Texas	Special Technical Adviser to the Oil Administrative Board, $5000		
Meyers, Norman L....	Wash.	Assistant Solicitor and Member of Petroleum Administrative Board, $5000. Terminating app't as Assistant Solicitor, P-5, $4600, Office of the Solicitor.		
Marshall, J. Howard..	Conn.	—do— (Terminating temporary detail to Div. of Investigations)		
Tyler, Mrs. Jennie L..		Correspondent Secretary $2400		
Coles, Catherine C....	N. Y.	Stenographer $2000		

Harold L. Ickes
Secretary of the Interior.

5962 1—612

All Status Changes Should Be Requested and Justified On This Form

DEPARTMENT OF THE INTERIOR

Memorandum for the Secretary

In re proposed permanent promotion, change in designation, etc. (Cross out those not applicable) of Charles Fahy (First name, initial, surname) of New Mexico (Legal residence) as Vice Chairman, Petroleum Administrative Board (Designation) at Grade EO 18, $8000 per annum for ..... (Probable length of service) to (if promotion) Chairman Pet. Admin. Board at Grade EO 19, $9000 per annum to be employed in Interior Department Division of the Oil Administration and effective ..... vice Nathan R. Margold.

*Justification:

The many important duties resting upon Mr. Margold, as Solicitor, make it necessary that he be relieved as Chairman Petroleum Administrative Board in order to devote more time to the legal work of the Department. Mr. Fahy, who has served as Vice Chairman of the Board since its organization and as Acting Chairman in Mr. Margold's absence, is fully capable by experience and training to assume the Chairmanship, in addition to his duties as First Assistant Solicitor.

It is, therefore, recommended that Mr. Fahy's designation be changed from Vice Chairman to Chairman and his grade changed from EO 18 to EO 19.

Previous Government service:

First Assistant Solicitor,
Interior Department
Vice Chairman, Petroleum
Administrative Board.

Nathan R. Margold
(Signature and title) *Chairman.*

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* Give full information, including necessity for employment, qualifications of appointee, and duties to be performed.

(If additional space is necessary, use the reverse side "head to foot," i. e., make the bottom on the obverse the top on the reverse.)

5963 1—612

All Status Changes Should Be Requested and Justified On This Form

(Stamp) Dep't of the Interior. Received Sep 18 1933 Secy.'s Office Appts., Mails & Files.

DEPARTMENT OF THE INTERIOR

Memorandum for the Secretary

In re proposed temporary excepted transfer, (Cross out those not applicable) of Meyers, Norman L. (First name, initial, surname) of Washington (Legal residence) as Assistant Solicitor and Member of Petroleum Administrative Board (Designation) at $5000. per annum for ..... (Probable length of service) to (if promotion) ..... at ..... per (month, annum, hour w. a. e., diem w. a. e.) to be employed in Petroleum Administration Interior Division of the Solicitor and effective ..... vice .....

* Justification: Mr. Meyers has been transferred from the legal staff of the Federal Power Commission and, along with Mr. Marshall, has made a study of the legal aspects of controlling oil production and has served the Interior Department in drafting the Oil Code. He has been active in connection with the administration of the President's regulations against the shipment of oil produced in violation of State Law. He has served on this work in Texas. In general, he has been engaged in the oil work of the Department of the Interior, since early in March when he was borrowed from the Federal Power Commission.

Previous Government service:

Assistant Solicitor
Federal Power Commission

Charles Fahy
(Signature and title)

* Give full information, including necessity for employment, qualifications of appointee, and duties to be performed.
(If additional space is necessary, use the reverse side "head to foot," i. e., make the bottom on the obverse the top on the reverse.)

5964 1—612

All Status Changes Should Be Requested and Justified On This Form

(Stamp) Dep't of the Interior Received Sep 18 1933 Secy's Office Appts., Mails & Files.

DEPARTMENT OF THE INTERIOR

Memorandum for the Secretary

In re proposed temporary excepted transfer, (Cross out those not applicable) of J. Howard Marshall (First name, initial, surname) of ..... (Legal residence) as Assistant Solicitor and Member Petroleum Administrative Board (Designation) at $5,000.00 per annum for Six Months (Probable length of service) to (if promotion) ..... at ..... per (month, annum, hour w. a. e., diem w. a. e.) to be employed in Petroleum Administration Division of the Solicitor and effective ..... vice .....

* Justification: Mr. Marshall is on special leave of absence from the Yale Law School. Along with Mr. Meyers has made a study of the legal aspects of controlling oil production and has served the Interior Department in drafting the Oil Code. Has been appointed Special Assistant to the Attorney General in connection with the administration of the President's regulations against the shipment of oil produced in violation of State Law. Has served on this work in Texas and Oklahoma and in general has been engaged in the oil work of the Department of the Interior since coming with the Government.

Previous Government service:

Assistant Solictor.

Charles Fahy
(Signature and title)

* Give full information, including necessity for employment, qualifications of appointee, and duties to be performed.
(If additional space is necessary, use the reverse side "head to foot," i. e., make the bottom on the obverse the top on the reverse.)

5965 (Stamp) Department of the Interior Received Jan 10 1935 Supervisor of Classification.

(Last name) Meyers (First name) Norman (Middle initial) L.

Title or Position Member of Petroleum Administrative Bd.
Date of Appointment ..... Annual Salary $8000 gross.
Local Home Address Chastleton Hotel Phone No. 10,000
State of Legal Residence New York.
Education—State Number of Years

Grade School	8
High School	4
College	8
Business School	....
Correspondence School	....
Finishing School	....

Married Age 27 Single X
Appointed at Request of or Endorsed by .....

Last Government Service Department ..... Position .....
Date Released ..... Annual Salary .....
Last Position Other Than Government Service Company ..... Date Released ..... Annual Salary .....
Is Your Husband or Wife in Government Service ..... If So, Where Employed ..... Annual Salary .....
Describe Duties Now Being Performed: .....

(Handwritten notation):
#Allocated by
Administrator

Duties and Responsibilities:
Under executive direction of the Administrator for the Petroleum Industry (Secretary of the Interior), but with unusual latitude for independent and unreviewed administrative and executive action and decision, to serve as a Member and Executive Secretary of the Petroleum Administrative Board and Chairman of the Federal Tender Board with full responsibility for the success or failure of the duties assigned to him; and to perform related work as assigned.

Work to be Performed;
As a Member and Executive Secretary of the Petroleum Administrative Board to advise directly with the Oil Administrator on fundamentally important and basic problems concerning the administration of the Code of Fair Competition for the Petroleum Industry throughout the United States involving the inter-relation of legal and

economic decisions affecting the National policy as respects the oil industry and to draft, under the direct supervision of the Oil Administrator, proposed legislation of a permanent character on all phases of the petroleum industry in the United States and in relation to the petroleum industry in Foreign countries.

As Chairman of the Federal Tender Board to conduct hearings and issue certificates of clearance on all petroleum and petroleum products produced and shipped in interstate and foreign commerce out of the East Texas Oil Field and out of such other fields in Texas and other States by order of and under the direct supervision of the Oil Administrator in the administration of the production and refining provisions of the Code of Fair Competition for the Petroleum Industry and the National Industrial Recovery Act; and to direct the activities of a large force Examiners, Accountants, Attorneys and Clerical Assistants in the administration of the operations of the oil administration in the State of Texas.

5966 Upon direct orders of the Petroleum Administrator to sit in a quasi-judicial capacity to make findings of facts and to hear appeals from the actions of the Central Committee of California Oil Producers and the Proration Committee for the State of Michigan and to conduct hearings in connection with the amendment and modification of the Code of Fair Competition for the Petroleum Industry involving determinations of complex and inter-related technical, economic and legal principles and facts and in cooperation with trade associations and committees of the petroleum industry to assist in the drafting of agreements and forms of contracts to be adopted in accordance with the terms of the Code of Fair Competition for the Petroleum Industry and the National Industrial Recovery Act, involving a wide discretion on legal and financial matters.

As Executive Secretary, to assist the Chairman of the Petroleum Administrative Board in coordinating and directing the activities of the Board, acting as Liaison Officer to the Planning and Coordination Committee of the Petroleum Industry and with the Bureau of Internal Revenue of the Department of the Treasury in connection with the production and processing tax under the Revenue Acts of the United States, and with the Federal Trade Commission, the National Emergency Council, and the National Recovery Act, and as an attorney to assist in the conduct of test cases of major importance in trial and appellate courts, being responsible for the preparation of intricate matters of fact and law and to act as personal representative of the Oil Administrator on Boards such as the Board of Governors of the National Petroleum Pool.

5967 (Stamp) Department of the Interior Received Jan 10 1935 Supervisor of Classification.

(Last Name) Marshall (First Name) J. (Middle Initial) Howard (Department or Unit) Petroleum Administrative Board.

Title or Position Member Petroleum Administrative Bd. Date of Appointment ..... Annual Salary $8000 gross.

Local Home Address Park Central Apts. Phone Met. 0540 State of Legal Residence Pennsylvania.

Education—State Number of Years

Grade School	8
High School	4
College	7
Business School	....
Correspondence School	....
Finishing School	....

Married X Age 28 Single .....

Appointed at Request of or Endorsed by .....

Last Government Service Department ..... Position ..... Date Released ..... Annual Salary .....

Last Position Other Than Government Service Company ..... Date Released ..... Annual Salary .....

Is Your Husband or Wife in Government Service .....

If so, Where Employed ..... Annual Salary .....

Describe Duties Now Being Performed:

(Handwritten notation):
Allocated by Administrator

Duties and Responsibilities:

Under executive direction of the Administrator for the Petroleum Industry (Secretary of the Interior), but with unusual latitude for independent and unreviewed administrative and executive action and decision, to serve as a Member of the Petroleum Administrative Board with direct responsibility for the Legal Division of the Board, and as the personal representative of the Petroleum Administrator on the Central Committee of California Oil Producers and the Pacific Coast Petroleum Agency with direct responsibility for the administrative control of production, refining and marketing throughout the entire Pacific Coastal Area under the Code of Fair Competition for the Petroleum Industry and to serve as a Member of the Federal Tender Board; and with full responsibility for the success or failure of the duties assigned to him; and to perform related work as assigned.

Work to be Performed:

As a Member of the Petroleum Administrative Board to advise directly with the Oil Administrator on fundamentally important and basic problems concerning the administration of the Code of Fair Competition for the Petroleum Industry throughout the United States involving the inter-relation of legal and economic decisions effecting the National policy as respects the oil industry and to draft, under the direct supervision of the Oil Administrator, proposed legislation of a permanent character on all phases of the petroleum industry in the United States and in relation to the petroleum industry in Foreign countries; to sit as the personal representative of the Petroleum Administrator on the Governing Boards of the Pacific Coast Petroleum Agency and the Central Committee of California Oil Producers and to draft and issue administrative rules, regulations, determinations and recommendations on behalf of the Petroleum Administrator governing the proration of oil production for the entire State of California and the operations of all the marketing and refining provisions of the Pacific Coast Petroleum Agency Agreement applicable to the entire Pacific Coastal Marketing and Refining Areas; and as a Member of the Federal Tender Board to act in the absence of the Chairman.

5968 Upon direct orders of the Petroleum Administrator to sit in a quasi-judicial capacity to make findings of facts and to hear appeals from the actions of the Central Committee of California Oil Producers and the Proration Committee for the State of Michigan and to conduct hearings in connection with the amendment and modification of the Code of Fair Competition for the Petroleum Industry involving determinations of complex and inter-related technical, economic and legal principles and facts and in cooperation with trade associations and committees of the petroleum industry to assist in the drafting of agreements and forms of contracts to be adopted in accordance with the terms of the Code of Fair Competition for the Petroleum Industry and the National Industrial Recovery Act, involving a wide discretion of legal or financial matters.

As an officer in charge of the Legal Division of the Petroleum Administrative Board, responsible for the enforcement and defense of the Oil Code and Executive Orders of the Oil Administrator issued thereunder in key cases of major importance in the various Federal Courts throughout the United States; legal representative of the Administrator to act as Liaison Officer to the Attorney General and the Department of Justice which work includes the preparation of intricate matters of fact and law.

5969

Dep't of the Interior
Received Oct. 22, 1933 Secy's Office
Appts., Mail & Files

DEPARTMENT OF THE INTERIOR

Order No. 3196—Supplemental. Washington November 1, 1933.
Buren

The following appointments or status changes, and organization changes, are hereby ordered and approved:

Bureau—Office of the Solicitor (Oil Enforcement)

Name	State	Position and Salary	Effective	Ctf. No
		Appointment		
Frey, John W.....	D. C.	Member Petroleum Administrative Board, $5000.		

Harold L. Ickes
Secretary of the Interior

5970 DEPARTMENT OF THE INTERIOR.

(Stamp) Dep't of the Interior Received Nov 4 1933 Secy's Office Appts Mails & Files.

Memorandum for the Secretary

In re proposed temporary appointment (Cross out those not applicable) of (First name, initial, surname) John W. Frey of (Legal residence) Washington, D. C. as (Designation) Member Petroleum Administrative Board at $5000 net per annum for (Probable length of service) indefinite to (if promotion) ..... at ..... per (month, annum, hour w. a. e., diem w. a. e.) to be employed in Petroleum Administrative Board Division of the ..... and effective November 1, 1933 vice .....

*Justification:

Full time employment as marketing adviser on the board. He is to have charge of statistical analysis and the statistical group in connection with marketing problems and marketing cost studies.

(In pencil.) Order 3196 Supl. Approved. H. L. I.

Previous Government service:

Research in foreign mining laws with Bureau of Mines June to September, 1928.

Business specialist (Petroleum) Minerals Division, Bureau of Foreign & Domestic Commerce October, 1928, to present.

Chairman, Voluntary Committee on Petroleum Economics—reports 6, 7 & 8. Member of same Committee, reports 4 & 5.

Nathan R. Margold,
Chairman, Petroleum Administrative Board.
(Signature and title)

* Give full information, including necessity for employment, qualifications of appointee, and duties to be performed.

(If additional space is necessary, use the reverse side "head to foot," i. e., make the bottom on the obverse the top on the reverse.)

5971 (Stamp) Department of the Interior Received Jan 10 1935 Supervisor of Classification.

(Last Name) Frey (First Name) John (Middle Initial) W. (Department or Unit) Petroleum Administrative Board.
Title or Position Member of Petroleum Administrative Bd. Date of Appointment ..... Annual Salary $8000 gross.
Local Home Address 3220 Connecticut Ave. Phone Clev. 0764 State of Legal Residence Wisconsin.
Education—State Number of Years

Grade School	9
High School	4
College	10
Business School	....
Correspondence School	....
Finishing School	....

Married X Age 44 Single ....
Appointed at Request of or Endorsed by .....
Last Government Service Department ..... Position .....
Date Released ..... Annual Salary .....
Last Position Other Than Government Service Company ..... Date Released ..... Annual Salary .....
Is Your Husband or Wife in Government Service .....
If So, Where Employed ..... Annual Salary .....
Describe Duties now Being Performed: .....

(Handwritten notations):

#Allocated by Administrator

Duties and Responsibilities:

Under executive direction of the Administrator for the Petroleum Industry (Secretary of the Interior), but with unusual latitude for independent and unreviewed administrative and executive action and decision, to serve as a Member of the Petroleum Administrative Board with direct responsibility for the Marketing Division of the Board, with full responsibility for the success or failure of the duties assigned to him; and to perform related work as assigned.

Work to be Performed:

As a Member of the Petroleum Administrative Board to advise directly with the Oil Administrator on fundamentally important and basic problems concerning the Marketing provisions of the Code of Fair Competition for

the Petroleum Industry and to direct the entire Marketing Division consisting of a large staff of Examiners, Accountants, Clerical Assistants in the administration of the operations of the oil administration.

As a personal representative of the Administrator to negotiate and sit with Committees of those engaged in the stabilization of wholesale and retail markets throughout large areas of the United States; to formulate and advise the Oil Administrator as to the National policy in marketing of oil under the Code of Fair Competition for the Petroleum Industry and the National Industrial Recovery Act; to assist the legal staff in the preparation of economic material for the trial of cases and to organize and direct the study of the costs of refining and marketing of petroleum products throughout the United States.

Upon direct orders of the Petroleum Administrator to sit in a quasi-judicial capacity to make findings of facts and to hear appeals from the actions of the Central Committee of California Oil Producers and the proration Committee for the State of Michigan and to conduct hearings in connection with the amendment and modification of the Code of Fair Competition for the Petroleum Industry involving determinations of complex technical and interrelated technical and economic principles and facts and in cooperation with trade associations and committees of
5972 the petroleum industry to assist in the drafting of agreements and forms of contracts to be adopted in accordance with the terms of the Code of Fair Competition for the Petroleum Industry and the National Industrial Recovery Act and involving a wide discretion on marketing and financial matters.

5973

Dep't of the Interior
Nov. 6, 1933, Secy's Office
Appts., Mail & Files

DEPARTMENT OF THE INTERIOR
Washington

Appointment Division. July 2, 1934.

Order No. 3397—Suppl. Maulding Buren, Realty.

The following appointments or status changes, and organization changes, are hereby ordered and approved:

Bureau—Office of the Solicitor (Oil Enforcement)

Name	State	Position and Salary	Effective	Ctf. No.
		Appointment		
Swanson, E. B.....	Wash.	Washington, D. C.:— Member of Petroleum Administrative Board and Chief of Production and Refining Division $6800 gross, Cr. 17.	July 2/34	

Harold L. Ickes
Secretary of the Interior.

5974 1—612

All Status Changes Should be Requested and Justified on On This Form

(Stamp) Dept. of the Interior Received Jul 3 1934 Adm. Assistant Office of the Secretary.

DEPARTMENT OF THE INTERIOR

Memorandum for the Secretary

In re proposed permanent transfer (Cross out those not applicable.) of E. B. Swanson (First name, initial, surname) of Washington State (Legal residence) as Chief, Petroleum Economic Division, Bureau of Mines (Designation) at $5600 per annum for ..... (Probable length of service) to Petroleum Administrative Board at E. 0.17 $6800 per annum to be Member of Petroleum Administrative Board and Chief of Production and Refining Division and effective July 1, 1934 vice .....

*Justification:

Mr. Swanson, who has been serving as a member of the Board and Chief of the Production and Refining Division, on detail from the Bureau of Mines, is a most valuable member of the Oil Administration. Recognized as one of the outstanding national experts on crude oil production and refining problems, his permanent appointment to the Board would be most desirable and would make his services available without any possibility of disrupting the Administrative program by reassignment to other duties in the Bureau of Mines. A permanent appointment to the Board also is recommended on the grounds of recognizing his meritorious ability and the heavy responsibilities placed upon him.

Previous Government service:

Bureau of Mines.

Nathan R. Margold
Chairman Petroleum Administrative Board.
(Signature and Title)
DJK

* Give full information, including necessity for employment, qualifications of appointee, and duties to be performed.
(If additional space is necessary, use the reverse side "head to foot," i. e., make the bottom on the obverse the top on the reverse.)

5975 (Last Name) Swanson (First Name) Edward (Middle Initial) B. (Department or Unit) Petroleum Administrative Board.

Title or Position Member of Petroleum Administrative Bd. Date of Appointment ..... Annual Salary $8000 gross.

Local Home Address 2512 Q. Street, N. W. Phone No. 1503 State of Legal Residence Washington.

Education—State Number of Years

Grade School	8
High School	4
College	6
Business School	.....
Correspondence School	.....
Finishing School	.....

Married X Age 40 Single .....

Appointed at Request of or Endorsed by .....

Last Government Service Department ..... Position ..... Date Released ..... Annual Salary .....

Last Position Other Than Government Service Company ..... Date Released ..... Annual Salary .....

Is Your Husband or Wife in Government Service ..... If So, Where Employed ..... Annual Salary .....

Describe Duties Now Being Performed: .....

(Handwritten notation):

#Allocated by Administrator

Duties and Responsibilities:

Under executive direction of the Administrator for the Petroleum Industry (Secretary of the Interior), but with unusual latitude for independent and unreviewed administrative and executive action and decision, to serve as a Member of the Petroleum Administrative Board with direct responsibility for the Production and Refining Division of the Board and to serve as liaison officer between the Administrator and the Sub Committee of the House Committee on Foreign and Interstate Commerce investigating the Petroleum Industry; and regulatory commissions and officers of oil producing States; with full responsibility for the success or failure of the duties assigned to him; and to perform related work as assigned.

Work to be Performed:

Acts as representative of the Petroleum Administrator (Secretary of the Interior) in furnishing technical and economic information to and otherwise assisting the Congressional Committee investigating the oil industry for the purpose of determining the necessity for legislation. In this capacity, selected the technical staff from various offices of the Interior Department and organized the study of geology, production, refining, marketing, export and import of petroleum and its products for the subcommittee. In such capacity acts directly to establish liaison between Administrator and the subcommittee.

Maintains, on behalf of the Petroleum Administrator, direct contact with:

1. Regulatory commissions of Texas, Oklahoma and Kansas, conservation officers of Louisiana and Montana, and committees in California, Michigan and New Mexico, in connection with crude oil production orders issued by such commission, officers, and committees, and is responsible for the proper coordination of action relative to crude oil production between the oil-producing States and the Federal Agency.
2. Industrial Code Authority to effect coordinated action between that organization and the Petroleum Administrator with regard to the supply of crude oil and the operation of petroleum refineries.
3. Producing and refining units of the oil industry to coordinate the crude oil requirements of the respective
5976 companies with the supply available from current production, storage, and purchases, and the operation of refining plants.
4. Producers and refiners of crude petroleum and the maintenance of markets for crude oil produced in areas of settled production to prevent the loss of employment in such areas.

In addition to the above executive responsibilities to the Petroleum Administrator, acts, in the organization of the Petroleum Administrative Board, directly in charge of all matters pertaining to the production and refining of crude petroleum, with direct supervision over all personnel in that branch of the Board.

Supervises and is directly in charge of:

1. Studies and estimates of the crude oil production necessary to balance consumer demand for petroleum

products and the equitable allocation of such production among the oil-producing States.

2. Studies and determinations of economic levels of gasoline inventories.

3. The methods of forecasting domestic and export demand for gasoline and the compilation of data necessary for the proper determination of established channels for the interstate movement of crude petroleum and petroleum products.

4. Current reports relative to crude oil inventories and the movement of crude petroleum and gasoline from producing areas to consuming areas.

5. Studies of cost of crude oil production in the various districts of the United States and similar cost studies relating to production and refining.

Reviews proposals and recommends to the Petroleum Administrator action in connection with:

1. Plans for the orderly development of new oil pools.

2. Applications of individual companies for the withdrawal of crude oil from storage.

3. Determination of production of gasoline necessary to meet the demand therefor and to provide proper gasoline inventories.

4. Crude oil production necessary to balance consumer demand for petroleum products and the equitable allocation of such production among the several oil-producing States.

5. Personnel changes in committees of the Code Authority concerned with production, refining and natural gasoline.

Considers and adjusts complaints from operating companies and others on matters relating to production and refining.

Conducts any hearings which might be held in connection with the work of the Branch.

5977 DEFENSE EXHIBIT NO. 975.

(Certified by the Department of the Interior to be duplicate original of a Telegram sent by Charles Fahy to C. E. Arnott and dated May 28, 1935.)

Washington, D. C.
May 28, 1935

C. E. Arnott,
26 Broadway,
New York City

In view Supreme Court decision holding codes invalid authority of Administrator of Petroleum Code to you and those with you in stabilization matters is suspended and until further word all such activities must be on purely voluntary basis without any sanction from Administrator.

Charles Fahy,
Chairman, Petroleum Administrative Board
For the Administrator.

5978 DEFENSE EXHIBIT NO. 976.

(Certified by the Department of the Interior to be duplicate original of a Letter dated June 3, 1935, signed by Charles Fahy, and sent to C. E. Arnott.)

Letterhead of Department of the Interior, Petroleum Administrative Board, Washington, D. C.

Mr. C. E. Arnott
26 Broadway
New York, New York

June 3, 1935

My dear Mr. Arnott:

I wish to acknowledge your recent letters concerning stabilization work in the South.

As I have already advised you, our participation in stabilization work terminated with the Supreme Court decision. In consequence, there are no further comments that I can make at this time. I want to take this opportunity, however, to express my cordial appreciation of the work that you have done in promoting the purposes of the National Industrial Recovery Act. Every evidence indicates that, the general situation is better than it has been for some years. It is my hope that the results which have been achieved will be maintained.

Yours sincerely,
Charles Fahy
Chairman.

5979 DEFENSE EXHIBIT NO. 977.

(Certified by the Department of the Interior to be copy of document on file in that Department.)

New York
June 12, 1935.

Mr. Charles Fahy, Chairman,
United State Department of the Interior,
Petroleum Administrative Board,
Washington, D. C.

Dear Mr. Fahy:

On my return to New York I find your note of the 3rd. I thank you for your kind words.

I agree with what you say that the general situation is better than it has been for some time and I think distinct progress was made under our joint stabilization efforts.

I shall be in Washington soon and will make a point of visiting you. I have a number of matters I would like to talk over with you.

Sincerely,
C. E. Arnott

5980 **DEFENSE EXHIBIT NO. 978.**

(Certified by the Department of the Interior to be Press Release, dated September 18, 1933, issued by the Department of the Interior.)

Immediate Release
September 18, 1933.

Remarks by the Honorable Harold L. Ickes, Secretary of the Interior and Oil Administrator, before the Planning and Coordination Committee and the Chairman and Vice-Chairman for its Regional Sub-Committees, at a private conference in the Mayflower Hotel, September 18, 1933.

Gentlemen of the Oil Industry:

I am pleased to welcome you to Washington in connection with the important work of stabilizing the oil business of this country to which work we expect you to contribute largely.

Certainly it is a gigantic task which confronts us and one that will call for strong nerves, clear heads and sound hearts. Your best business judgment, highest technical skill, utter unselfishness and ardent patriotism will be needed in support of President Roosevelt's program. With proper comprehension and cooperation his plan must succeed.

A short time ago conditions in your industry were very bad, but since the passage of the National Industrial Recovery Act notable improvement has been shown. I find that advances in retail gasoline prices of 30 percent, in wholesale gasoline prices of 100 percent, and in crude oil prices up to 250 percent have already taken place, although our control of production was only inaugurated ten days ago.* Your problem is to hold and consolidate this improvement so far as it is justified while paving the
5981 way for further improvement.

I ask you to remember that our primary purpose is to put men back to work and to raise wages, thus enlarging the purchasing power of the industry. This beneficial result will then extend to other industries and again be reflected back to your own. I trust you will direct your earliest and most earnest attention to this labor and wage question, and to keep my staff advised of the progress made.

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* Retail price middle grade gasoline 48 representative cities June 1, 10⅞¢, Sept. 15, 14.5¢; tank car price Group 3 same grade June 1, 2⅝¢, Sept. 15, 5⅝¢; 36 gravity Mid-continent crude June 1, 25¢, Sept. 15, 89¢.

Many units in the oil industry adopted the labor and wage provisions of the N. R. A. under the President's reemployment agreement even before the Oil Code was signed, and reports on the improvement in employment and wages should be available by now. I will be most interested in having them brought to my attention at the earliest possible date.

I have established in the Interior Department the Petroleum Administrative Board, the personnel of which was recently announced in the press. This is now organized to handle all matters promptly. The routine will be for all communications from the industry or from the public to clear through the Board's Secretary, Mr. Meyers, by whom each question, technical, legal or administrative, will be referred immediately to the proper person for action.

Many of these matters should go to your Committee first for investigation and recommendation and I hope you will organize yourselves to receive and handle them. The Petroleum Administrative Board will acknowledge each
5982 inquiry, request or complaint by letter or telegram the day of its receipt, if possible, and issue final determinations at the earliest possible date. This procedure seems highly important if we are to secure the cooperation and support of the public and I am sure your Committee will aid us to carry out this procedure.

For all matters to be taken up by the Committee with the Board I have selected as the point of contact our Special Technical Adviser, Mr. Thomas, who is already known to most of you. This should also facilitate our work, save time and avoid duplication of effort. On this latter point I regret that the pressure of details has prevented one member of the Board from sitting constantly with the Committee but so far we have been unable to arrange that. In the meantime, I suggest that the Committee keep the Board advised in a general way of the proposals which the Committee has under consideration, even while the recommendations are being formulated, in order that our approval can be expedited.

I have a further and important suggestion to make, one that I transmitted to the Committee through the Board a week ago. It is that in naming the personnel of your subcommittees, regional and local, representation be given to all the various groups and factions within the industry so that the problems and views of all may be considered simultaneously in formulating your recommendations. During the process of adopting a Code we became aware how many factions and schools of thought exist, and how widely vari-

ant are their ideas on the industry's problems and their proper solution. None should be denied a right to be
5983 heard and one of the best ways to assure that is to make your committees comprehensively representative. Thus we may reduce the flood of telegrams reaching us to the effect that this and that action is being taken without consideration of the welfare of particular groups.

Gentlemen, we have a solemn duty to perform. Our task is to stabilize the oil industry upon a profitable basis. That is the keen desire of the Administration and we will work with you constantly to that end. But we must remember that the income of the oil industry is the outgo of the consuming public, and so design our program by progressive stages, that too great a burden is not placed too suddenly upon the purchasing power of the public just at this time. In the end our program cannot succeed unless we have the support of the public.

5984 DEFENSE EXHIBIT NO. 979.

(Certified by the Department of the Interior to be duplicate original of a Letter dated July 25, 1935, signed by Harold L. Ickes and sent to C. E. Arnott.)

Letterhead of Administrator for the Petroleum Industry, Washington, D. C.

July 25, 1935

Mr. C. E. Arnott
Highland Avenue
Short Hills, New Jersey

My dear Mr. Arnott:

The Planning and Coordination Committee which was appointed and served under the Code of Fair Competition for the Petroleum Industry engaged with me for nearly two years in the most earnest effort of joint industrial and governmental action perhaps ever undertaken. For the purpose of furthering national recovery, we entered upon this work at a time of great stress within the petroleum industry and generally throughout all industry. Through the invalidation of the Code your activities as a Committee now have been brought to a close and my own as Administrator have become limited under the amended National Industrial Recovery Act to research and review, with such advisory assistance as may be useful to state authorities, to the industry and to the government.

In the organizations formed to assist in administering the Code were numerous and important Committees and employees who contributed to the real progress made during the Code period in the diminution of unfair competitive practices, the balancing of crude oil supply with demand, the increase in employment and wages, the orderly operation of petroleum refineries, and the systematic development of new fields.

I desire to express the appreciation of the government for your long and often arduous service on the Committee, and through you to the many individuals who worked with you, I do this with the conviction, which I believe most of the Committee shares, that the work was well worth while and went a long way in the accomplishment of the purposes of the Code and the National Industrial Recovery Act.

Sincerely yours,
Harold L. Ickes
Administrator.

5985 GOVERNMENT EXHIBIT NO. 980.

(Certified by the Department of the Interior to be copy of duplicate original of a letter dated April 2, 1935, signed by Harold L. Ickes and sent to C. E. Arnott.)

Letterhead of Administrator for the Petroleum Industry, Washington

Apr. 2, 1935

Mr. C. E. Arnott,
Chairman, Marketing Committee,
Planning and Coordination Committee,
Investment Building,
Washington, D. C:

My dear Mr. Arnott:

I have just received a report from the Petroleum Administrative Board with respect to a moratorium on dealer accounts which is reported to have been arrived at by agreement between the companies supplying the major part of the gasoline sold in the Chicago area.

Although no evidence has been presented which would definitely establish the basis for the agreement entered into, it is possible that the companies involved are purporting to act under the authorization of my letter of July 20, 1934, authorizing you to designate committees with authority to confer, to negotiate and to hold due public hearings in order to remedy unfair price situations.

Several parties have complained to the Petroleum Administrative Board that the moratorium oppresses them. I am not attempting, however, in this letter to pass on the wisdom of the moratorium. The matter that at present concerns me is the necessity of complying with the requirements of the basic law. In authorizing the formulation of a stabilization program, I necessarily conditioned the authority granted, by providing that the requirements of Clause 2 of Subsection (a) of Section 3 of the National Industrial Recovery Act should be observed. I know you will appreciate that agreements between supplying companies which might be in conflict with the anti-trust laws of the United States require specific approval after due consideration if companies are to receive the protection afforded by Sections 4 and 5 of the National Industrial Recovery Act.

I understand that the temporary character of a number of situations and the need for immediate action has made

formalized agreements impracticable and in a num-
5986 ber of instances they may be unnecessary. However, when the understandings arrived at a bases of solution of price wars affecting the industry over a considerable area are intended to operate over a definite period of time or involve substantial changes in the policy of the various supplying companies made only in consideration of similar action on the part of other companies, it is necessary that the procedure required by the Recovery Act be followed in order that the arrangement be legal. If any such agreements have been made I should like a report as to them. If they require approval to be effective, as my information leads me to believe is the case with respect to the moratorium, I should be glad to give consideration to them under the provisions of the Act.

I appreciate greatly your cooperation with the Administration in taking on the difficult work of directing a program of stabilization and I know that you will understand that this action is necessary in order to comply with the requirements of law with which I am charged with administrative responsibility.

Sincerely yours,
Harold L. Ickes
Administrator.

5987 DEFENSE EXHIBIT NO. 984.

5988 Stipulation

It Is Hereby Agreed by and between the parties hereto that the following facts shall be taken to be admitted by said parties:

The purchases of gasoline by the Standard Oil Company (Indiana) from independent refiners in East Texas and the Mid-Continent Field from 1931 to 1936, (both inclusive) are as follows:

5989

Date of Purchase	From Whom	Quantity	Point of Origin	Grade Purchased	Price Basis	**No. Texas Refiners Quotations on basis of f. o. b. Group 3 (as shown in Platt's Oilgram date of purchase)	##Prices shown in Chicago Journal of Com. (Group 3 Okla.) date of purchase
					(For Comparable grade)		
1-14-31	Cushing Refg. & Gas	30 (sellers) cars	Cushing, Okla.	*U. S. Motor Gasoline	4¢ gal. flat, f. o. b. Group 3	not available	not available
1-14-31	Omar Refg. Co.	50 (sellers) cars	Garber, Okla.	"	4¢ gal. flat f. o. b. Garber, Okla.	"	"
1-14-31	H. F. Wilcox Oil & Gas Co.	75 (sellers) cars	Bristow, Okla.	"	4¢ gal. flat f. o. b. Bristow, Okla.	"	"
1-19-31	Dale Oil & Refg. Co.	60 (sellers) cars	Electra, Texas	"	4¢ gal. flat f. o. b. Group 3	"	"
1-19-31	Eason Oil Co.	75 (sellers) cars	Enid, Okla.	"	4¢ gal. flat f. o. b. Enid, Okla.	"	"
1-27-31	Olney Oil & Refg. Co.	15 (sellers) cars	Olney, Texas	"	4¢ gal. flat f. o. b. Group 3	"	"
5990							
2- 4-31	H. F. Wilcox Oil & Gas Co.	100 (sellers) cars	Bristow, Okla.	*U. S. Motor	4¢ gal. flat f. o. b. Group 3	not available	not available
2-10-31	H. F. Wilcox Oil & Gas Co.	50 (sellers) cars	Bristow, Okla.	"	4¢ gal. flat f. o. b. Bristow, Okla.	"	"
2-10-31	H. F. Wilcox Oil & Gas Co.	50 (buyers) cars	Bristow, Okla.	"	3 7/8¢ gal. flat, f. o. b. Bristow, Okla.	"	"
2-20-31	H. F. Wilcox Oil & Gas Co.	75 (sellers) cars	Bristow, Okla.	"	3¾¢ gal. flat f. o. b. Group 3	"	"
5- 7-31	H. F. Wilcox Oil & Gas Co.	50 (sellers) cars	Bristow, Okla.	"	2¾¢ gal. flat, f. o. b. Group 3	"	"
5-13-31	Eason Oil Co.	50 (sellers) cars	Enid, Okla.	"	2¾¢ gal. flat, f. o. b. Group 3	"	"

5991

						(For comparable grade)	
5-26-31	Eason Oil Co.	50 (sellers) cars	Enid, Okla.	*U. S. Motor Gasoline	2 5/16¢ gal. flat, f. o. b. Group 3	not available	not available
6-15-31	Eason Oil Co.	56 (sellers) cars	Enid, Okla.	"	2 5/16¢ gal. flat, f. o. b. Group 3	"	"
6-16-31	Dale Oil & Refg. Co.	30 (sellers) cars	Electra, Texas	"	2 5/16¢ gal. flat, f. o. b. Group 3	"	"
6-20-31	H. F. Wilcox Oil & Gas Co.	25 (sellers) cars	Bristow, Okla.	"	2 5/16¢ gal. flat, f. o. b. Group 3	"	"
		841 cars					

No purchases of gasoline made from Independent Refiners during year 1932

5992

10-10-33	Waggoner Refg. Co.	15 (sellers) cars	Electra, Texas	59 Octane & below (3rd grade)	3 3/16¢ gal. flat, f. o. b. Group 3	not available	not available
10-10-33	The Eldorado Refining Co.	15 (sellers) cars	Eldorado, Kansas	"	3 3/16¢ gal. flat, f. o. b. Group 3	"	"
10-16-33	The Eldorado Refining Co.	15 (sellers) cars	Eldorado, Kansas	"	3 3/16¢ gal. flat, f. o. b. Group 3	"	"
		45 cars					
						Platt's Oilgram, as above	
5- 4-34	Olney Oil & Refg. Co.	10 (sellers) cars	Olney, Texas	"	3 5/16¢ gal. flat, f. o. b. Group 3	3⅜ — 4 3/16¢	
5-17-34	Olney Oil & Refg. Co.	15 (sellers) cars	Olney, Texas	"	4¢ gal. flat, f. o. b. Group 3	4⅛ — 4¼¢	
5-18-34	Panhandle Refg. Co.	10 (sellers) cars	Wichita Falls, Texas	65 Octane & above (Regular Grade)	Low price for 60-64 Octane f. o. b. Group 3 Chgo. Jrl. of Com. date of shipment	4½ — 4¾¢ (60-64 octane)	
5-22-34	Taxman Refg. Co.	15 (sellers) cars	Wichita Falls, Texas	59 Octane & below (3rd grade)	4¼¢ gal. flat, f. o. b. Group 3	4¼ — 4 3/16¢	
5-25-34	Waggoner Refg. Co.	25 (sellers) cars	Electra, Texas	"	4¼¢ gal. flat, f. o. b. Group 3	4¼ — 4 3/16¢	

5993

5-29-34	Taxman Refg. Co.	15 (sellers) cars	Wichita Falls, Texas	"	4¼¢ gal. flat, f. o. b. Group 3	4¼ — 4 3/16¢	
6- 6-34	Olney Oil & Refg. Co.	10 (sellers) cars	Olney, Texas	"	4¼¢ gal. flat, f. o. b. Group 3	4¼ — 4 3/16¢	
6-12-34	Olney Oil & Refg. Co.	10 (sellers) cars	Olney, Texas	"	3 3/16¢ gal. flat, f. o. b. Group 3	4 — 4 1/16¢	

Date of Purchase	From Whom	Quantity	Point of Origin	Grade Purchased	Price Basis	**No. Texas Refiners quotations on basis of f. o. b. Group 3 (as shown in Platt's Oilgram date of purchase)	##Prices shown in Chicago Journal of Com. (Group 3 Okla.) date of purchase
6-19-34	Olney Oil & Refg. Co.	10 (sellers) cars	Olney, Texas	"	3½¢ gal. flat, f. o. b. Group 3	3½ — 3¾¢	
7- 6-34	Constantin & Co.	21 (sellers) 10 (buyers) cars	Overton, Texas	"	Average of lows in Chgo. Jrnl. of Com. & Platt's Oilgram (Okla. mkt.) date of shipment, f. o. b. Group 3	*** — 3⅝¢	
7- 7-34	Trio Refg. Co. (Grogan Oil Co. Sales Agents)	50 (sellers) cars	Arp, Texas	"	" "	*** — 3⅝¢	
7- 9-34	Oil Refineries, Inc.	35 (sellers) cars	Overton, Texas	"	" "	*** — 3⅝¢	
5904						(For comparable grade)	
7- 6-34	Constantin & Co.	10 (sellers) cars	Overton, Texas	59 octane & below (3rd grade)	3½¢ gal. flat, f. o. b. Group 3	3½ — 3⅝¢	not available
7-12-34	Waggoner Refg. Co.	50 (sellers) cars	Electra, Texas	"	25 @ 3½¢ gal. flat, f. o. b.	3¾ — 3⅞¢	"
					25 @ 3½¢ gal. flat, f. o. b. Group 3	3¾ — 3⅞¢	"
7- 17-34	Olney Oil & Ref.	10 (sellers) cars	Olney, Texas	"	3½¢ gal. flat, f. o. b. Group 3	3⅞ — 4¢	"
7-26-34	Olney Oil & Ref.	10 (sellers) cars	Olney, Texas	"	3½¢ gal. flat, f. o. b. Group 3	3⅞ — 4⅛¢	"
7-31-34	Arrow Ref. & Prod.	10 (sellers) cars	Overton, Texas	"	Average of lows in Chgo. Jrnl. of Com. & Platt's Oilgram (Okla. mkt.) date of shipment, f. o. b. Group 3	*** — 4¢	
5905							
8- 6-34	Olney Oil & Ref.	20 (sellers) cars	Olney, Texas	62 octane & below (3rd grade)	3½¢ gal. flat, f. o. b. Group 3	4 — 4⅛¢	"

8 -7 34	Panhandle Refg.	15 (sellers) cars	Kings Mill, Texas	"	3½¢ gal. flat, f. o. b. Group 3	4	—	4¼¢	"
8- 9-34	Panhandle Refg.	15 (sellers) cars	Wichita Falls, Texas	"	3½¢ gal. flat, f. o. b. Group 3	4	—	4¼¢	"
8- 9-34	Grogan Oil Co. (Sales Agents for Oil Refineries, Inc.)	15 (sellers) cars	Overton, Texas	"	Average of lows in Chgo. Jrnl. of Com. & Platt's Oilgram (Okla. mkt.) date of shipment, f. o. b. Group 3.	***	—	3.9375	
8- 9-34	Constantin & Co.	50 (sellers) cars	Overton, Texas	"	" "	***	—	3.9375	
8-10-34	Lone Star Refg. Co.	35 (sellers) cars.	Gladewater, Tex.	"	" "	***	—	3.9375	
8-17-34	Grogan Oil Co. (Sales Agents for Trio Refg. Co.)	14 (sellers) cars	Arp, Texas	"	" "	***	—	3.875	
8-17-34	Lone Star Refg. Co.	38 (sellers) cars	Gladewater, Tex.	"	" "	***	—	3.875	
8-20-34	Olney Oil & Ref.	5 (sellers) cars	Olney, Texas	"	3½¢ gal. flat, f. o. b. Group 3	3⅞¢	—	4¢	
5996									
8-27-34	Constantin & Co.	20 (sellers) cars	Overton, Texas	"	Average of lows in Chgo. Jrnl. of Com. & Platt's Oilgram (Okla. mkt.) date of shipment, f. o. b. Group 3	***	—	3.8125	
8-28-34	Waggoner Refg. Co.	40 (sellers) cars	Electra, Texas	62 Octane & below (3rd grade)	3½¢ gal. flat, f. o. b. Group 3	3¾	—	4¢	"
9-20-34	Waggoner Refg. Co.	50 (sellers) cars	Electra, Texas	"	4¢ gal. flat f. o. b. Electra, Texas	3¾	—	3⅞¢	"
9-21-34	Overton Ref. Co.	40 (sellers) cars	Overton, Texas	"	4¢ gal. flat f. o. b. Electra, Texas	⅛3½	—	3⅝¢	"
9-21-34	Kilgore Refg. Co.	25 (sellers) cars	Kilgore, Texas	"	4¢ gal. flat f. o. b. Kilgore, Texas	⅛3½	—	3⅝¢	"
9-28-34	Lone Star Ref. Co.	30 (sellers) cars	Gladewater, Texas	"	4¢ gal. flat f. o. b. Gladewater, Texas	⅛3⅜	—	3½¢	"
9-28-34	La Pren Refg. Co.	5 (sellers) cars	Kilgore, Texas	"	4¢ gal. flat f. o. b. Kilgore, Tex.	⅛3⅜	—	3½¢	"

*** This is the average of the lows as shown in the Chicago Journal of Commerce and Platt's Oilgram, (Oklahoma Refinery Market), on the date the purchase was made.

5997

Date of Purchase	From Whom	Quantity	Point of Origin	Grade Purchased	Price Basis	**No. Texas Refiners quotations on basis of f. o. b. Group 3 (as shown in Platt's Oilgram date of purchase)	##Prices shown in Chicago Journal of Com. (Group 3 Okla.) date of purchase
10- 1-34	Waggoner Refg. Co.	50 (sellers) cars	Electra, Texas	62 octane & below (3rd grade)	4¢ gal. flat f. o. b. Electra, Texas	3¾ 3⅞¢	Not available
10- 1-34	Olney Oil & Ref.	35 (sellers) cars	Olney, Texas	"	4¢ gal. flat f. o. b. Olney, Texas	3¾ 3⅞¢	"
10-11-34	Kilgore Refg. Co.	25 (sellers) cars	Kilgore, Texas	"	5¢ gal. flat f. o. b. Kilgore, Texas	#2½ 2⅝¢	"
10-12-34	La Pren Refg. Co.	25 (sellers) cars	Kilgore, Texas	"	5¢ gal. flat f. o. b. Kilgore, Texas	#2½ 2⅝¢	"
10-12-34	Texas Oil Prod.	25 (sellers) cars	Gladewater, Texas	"	5¢ gal. flat f. o. b. Kilgore, Texas	#2½ 2⅝¢	"
11- 6-34	Panhandle Ref. Co.	30 (sellers) cars	Wichita Falls, Tex.	69-70 octane (Regular grade)	4¾¢ gal. flat f. o. b. Group 3	4⅝ 4¾¢ (63-70 octane)	"
5998							
11-22-34	Panhandle Ref. Co.	30 (sellers) cars	Wichita Falls, Texa.	69-70 Octane (Regular Grade)	4⅝¢ gal. flat f. o. b. Group 3	4⅝ 4¾¢ (63-70 Octane)	"
11-26-34	Waggoner Ref. Co.	25 (sellers) cars	Electra, Texas	"	4⅝¢ gal. flat f. o. b. Group 3	5⅛ 4¾¢ (63-70 Octane)	"
11-27-34	Waggoner Ref. Co.	20 (sellers) cars	Electra, Texas	"	4⅝¢ gal. flat f. o. b. Group 3	4⅝ 4¾¢ (63-70 Octane)	"
12- 7-34	Panhandle Ref. Co.	25 (sellers) cars	Wichita Falls, Texas	"	3⅞¢ gal. flat f. o. b. Group 3	4⅛ 4⅝¢ (63-70 Octane)	"
		1033 cars					

* Beginning October 12, 1931, prices on U. S. Motor Gasoline were based on octane numbers.

** Group 3 basis means freight difference between East Texas, and Group 3 has been recognized in the quoted price.

Price shown in Platt's Oilgram f. o. b. East Texas, (made from legally produced crude oil).

Chicago Journal of Commerce does not publish a summary of prices quoted on basis of f. o. b. Group 3 by refiners in North Texas or East Texas.

								xPlatt's Oilgram, as above.
1-14-35	Waggoner Ref. Co.	25 (sellers) cars	Electra, Texas	69-70 Octane (Regular Grade)	4⅝¢ gal. flat f. o. b. Group 3	4¼ (63-70 Octane)	4½¢	
2-21-35	"	25 cars	" "	"	4⅝¢ gal. flat f. o. b. Group 3	4¼ (63-70 Octane)	4½¢	
3- 8-35	"	25 cars	" "	"	4½¢ gal. flat f. o. b. Group 3	4⅜ (63-70 octane)	4½¢	
5999 15 *3-14-35	"	25 cars	" "	"	4⅝¢ gal. flat f. o. b. Group 3	4⅝ (63-70 Octone)	4⅞	
22 *3-21-35	"	10 cars	" "	"	4¾¢ gal. flat f. o. b. Group 3	4¾ (63-70 Octane)	4⅞	
22 *3-21-35	"	15 cars	" "	62 Oct & below (3rd Grade)	3⅞¢ gal. flat f. o. b. Group 3	3⅞ (62 Oct. & below)	4	
4- 4-35	"	50 cars	" "	69-70 Octane (Regular Grade)	4⅞¢ gal. flat f. o. b. Group 3	4⅞ (63-70 Octane)	5	
4- 8-35	"	25 cars	" "	"	5¢ gal. flat f. o. b. Group 3	5 (63-70 Octane)	5¼	
4-24-35	"	10 cars	" "	"	5¼¢ gal. flat f. o. b. Group 3	5¼ (63-70 Octane)	5½	
2 *5- 1-35	"	25 cars	" "	"	5¼¢ gal. flat f. o. b. Group 3	5¼ (63-70 Octane)	5½	
9 *5- 8-35	"	25 cars	" "	"	5¼¢ gal. flat f. o. b. Group 3	5¼ (63-70 Octane)	5½	
5-21-35	"	25 cars	" "	"	5⅜¢ gal. flat f. o. b. Group 3	5⅜ (63-70 Octane)	5½	
6- 4-35	"	25 cars	" "	"	5⅜¢ gal. flat f. o. b. Group 3	5⅜ (63-70 octane)	5¾	

8000½

Date of Purchase	From Whom	Quantity	Point of Origin	Grade Purchased	Price Basis	No. Texas Refiners quotations on basis of f. o. b. Group 3 (as shown in Platt's Oilgram) date of purchase
6-12-35	Waggoner Ref. Co.	25 cars	Electra, Texas	69-70 octane (Regular Grade)	5 5/16¢ gal. flat f. o. b. Group 3	5⅛ — 5¼ 63-70 octane
6-24-35	"	10 cars	" "	"	5 5/16¢ gal. flat f. o. b. Group 3	5⅛ — 5¼ "
7- 3-35	"	15 cars	" "	"	5 5/16¢ "	5⅛ — 5¼ "
7-12-35	"	15 cars	" "	"	5 5/16¢ "	5⅛ — 5¼ "
7-18-35	"	20 cars	" "	"	5 5/16¢ "	5⅛ — 5¼ "
8- 2-35	"	25 cars	" "	"	5 5/16¢ "	5⅛ — 5¼ "
8- 9-35	"	25 cars	" "	"	5 5/16¢ "	5⅛ — 5¼ "
8-21-35	"	10 cars	" "	"	5 5/16¢ "	5⅛ — 5¼ "
9						
9- 7-35	"	10 cars	" "	"	5 5/16¢ "	5⅛ — 5¼ "
9-13-35	"	15 cars	" "	"	5 5/16¢ "	5⅛ — 5¼ "
9-17-35	"	15 cars	" "	"	5 5/16¢ "	5⅛ — 5¼ "
9-27-35	"	25 cars	" "	"	5 5/16¢ "	5⅛ — 5¼ "
6000						
10- 8-35	"	25 cars	" "	"	5 5/16¢ gal. flat f. o. b. Group 3	5⅛ — 5¼ "
10-15-35	"	15 cars	" "	"	xxLow price Chicago Journal of Com. date of shipment f. o. b. Group 3	5⅛ — 5¼ "
10-17-35	"	10 cars	" "	"	"	5⅛ — 5¼ "
10-18-35	"	25 cars	" "	"	"	5⅛ — 5¼ "
29						
10-28-35	"	25 cars	" "	"	"	5⅛ — 5¼ "
11- 5-35	"	50 cars	" "	"	"	5⅛ — 3¾ "
12- 4-35	"	25 cars	" "	62 Oct. & below (Third Grade)	"	4¼ 62 Octane & below
12-11-35	"	25 cars	" "	"	"	4⅝ — 4⅝ "
12-16-35	"	50 cars	" "	69-70 octane (Regular Grade)	"	5⅝ — 5¾ 63-70 Octane
12-31-35	"	25 cars	" "	62 Oct. & below	"	4⅝ 62 Octane

		795 cars						
6001								
-36	Panhandle Prod & Refg. Co.	10 cars	Wichita Falls, Tex.	"	"	4¼		"
-36	Waggoner Ref. Co.	25 cars	Electra, Texas	69–70 octane (Regular Grade)	"	5⅛ — 5¼		63–70 Octane
14 *1-13-36	"	25 cars	"	62 Oct. & below (Third Grade)	"	5¼ — 5⅜		62 Octane and below
14 *1-13-36	"	15 cars	"	69–70 Octane (Regular Grade)	"	6⅛ — 6¼		63–70 Octane
1-29-36	"	5 cars	"	62 Oct. & below (Third Grade)	"	5¼		62 Octane and below
1-29-36	"	20 cars	"	69–70 Octane (Regular Grade)	"	6⅛		63–70 Octane
4 *2- 3-36	"	35 cars	"	62 Oct. & below (Third Grade)	"	5¼		62 Octane and below
11 *2-10-36	"	40 cars	"	69–70 Octane (Regular Grade)	"	6⅛		63–70 Octane
2-27-36	"	25 cars	"	62 Oct. & below	"	5 — 5⅛		62 Octane and below
6002								
3- 9-36	Waggoner Ref. Co.	25 cars	Electra, Tex.	62 Oct. & below (Third Grade)	Low price Chgo Jrnl. of Com. date of shipment f. o. b. Group 3	5¢		62 Octane and below
3-16-36	"	30 cars	"	"	"	5		"
23 *3-21-36	"	20 cars	"	69–70 Octane (Regular Grade)	"	6 — 6⅛		63–70 Octane
4- 6-36	"	25 cars	"	62 Oct. & below (Third Grade)	"	5 — 5⅛		62 Octane and below
4- 9-36	"	50 cars	"	"	"	5 — 5⅛		"
4-16-36	"	25 cars	"	69–70 Octane (Regular Grade)	"	6 — 6⅛		68–70 Octane
*5- 5-36	"	25 cars	"	62 Oct. & below (Third Grade)	"	5		62 Octane and below
*5-11-36	"	25 cars	"	"	"	4⅞ — 5		"
*5-14-36	"	30 cars	"	"	"	4⅞ — 5		"

Date of Purchase	From Whom	Quantity	Point of Origin	Grade Purchased	Price Basis	No. Texas Refiners quotations on basis of f. o. b. Group 3 (as shown in Platt's Oilgram) date of purchases	
*5-18-36	"	20 cars	"	69-70 Octane (Regular Grade)	"	6	68-70 Octane
6- 2-36	"	25 cars	"	62 Oct. & below (Third Grade)	"	4¾ — 5	62 Octane and below
6- 5-36	"	25 cars	"	"	"	4¾ — 5	"
*6-11-36	"	25 cars	"	"	"	4¾ — 4⅞	"
6-16-36	"	25 cars	"	"	"	4¾ — 4⅞	"
7- 8-36	"	25 cars	"	"	"	4⅞ — 5	"
7- 8-36	"	25 cars	"	69-70 Octane (Regular Grade)	"	6	68-70 Octane
7-14-36	"	50 cars	"	62 Oct. & below (Third Grade)	"	4⅞ — 5	62 Octane and below
*8- 3-36	"	25 cars	"	"	"	4⅞ — 5	"
*8- 6-36	"	50 cars	"	69-70 Octane (Regular Grade)	"	6	68-70 Octane
*8-10-36	"	25 cars	"	62 Oct. & below (Third Grade)	"	4⅞ — 5	62 Octane and below
*9- 8-36	"	20 cars	"	"	"	4⅝ — 4⅞	"
9-11-36	"	15 cars	"	"	"	4⅝ — 4⅞	"
**9-17-36	"	15 cars	"	69-70 Octane (Regular Grade)	"	5½ — 5.85	68-70 Octane
*10- 2-36	"	25 cars	"	62 Oct. & below (Third Grade)	Average of lows Chgo. Jrnl. of Com. & Platt's Oilgram date of shipment f. o. b. Group 3, Okla.	4½ — 4⅝	62 Octane and below

12-10-36	"	25 cars	"	"	"	4¾		"
12-14-36	"	25 cars	"	"	"	4¾		"
		925 cars.						

* In these instances the written memorandum of agreement was dated subsequent to actual purchase.

** In these instances memorandum of agreement was dated prior, either in error or due to purchase reported by telephone, and later telegram.

x Chicago Journal of Commerce does not publish a summary of prices quoted on basis of f. o. b. Group 3 by refiners in No. Texas District.

xx For comparable grade

"Flat" price sales were for shipment within 30 days

6005 That said gasoline tabulated above was shipped to Standard Oil Company's (Indiana) own bulk stations, and hence distributed by the company to its own dealer and consumer accounts.

6006 GOVERNMENT EXHIBIT NO. 985.

Telegram

Electra, Texas
July 10, 1935

Mr. A. V. Bourque
Western Petroleum Refiners Assn.
Tulsa, Oklahoma

Stocks June first seven five eight naught six production June three six eight three six shipments June four five three ten stocks July first six seven three three one stocks July tenth seven four naught six four shipments July first to tenth one ten eight one production July first to tenth out of proportion to shipments because have operated continuously we usually run first eighteen days of month and shut down balance of month July sales to group Barnsdall ten cars Standard of Indiana fifteen Pure twelve Continental five.

Waggoner Refining Co. Inc.

6007 GOVERNMENT EXHIBIT NO. 986.

Letterhead of Dale W. Moore Oil Co., Tulsa

Waggoner Refining Co., Inc.
Vernon, Texas

October 2, 1935

Attention: Mr. Dave Gray

Dear Dave:

I have been talking to the Group the past day or two regarding some help on motor gasoline at 4⅝¢, Group 3.

Yesterday they wanted to know if this was Waggoner material and I said, yes. They informed me they understood you did not need any further help in addition to what they were already giving you.

Incidentally, I advised them this was material which I had coming from you under certain agreement and I was having some difficulty in moving all surplus to my jobbing trade unless I cut the price. They would prefer that I endeavor to move this material without calling on them for help, but advised that possibly within the next week when new allocations are arranged with regard to buying they might then be of some assistance.

I am giving you this information for what it may be worth to you.

With kindest regards, I am,

Yours very truly
Dale W. Moore Oil Co.
Dale W. Moore

6008 **DEFENSE EXHIBIT NO. 988.**

DEPARTMENT OF THE INTERIOR
Washington, D. C.

January 6, 1938

Pursuant to Title 28, Paragraph 661, United States Code, I hereby certify that the annexed papers are true copies of the original order appointing Charles Fahy as Chairman of the Petroleum Administrative Board, succeeding Nathan R. Margold, and the sheet describing the duties of the position of Chairman of the Petroleum Administrative Board when occupied by Mr. Nathan R. Margold as they appear in the records and files of the Department of the Interior. The duties of the position of Chairman of the Petroleum Administrative Board when occupied by Mr. Charles Fahy were the same as when it was occupied by Mr. Nathan R. Margold.

In Testimony Whereof, I have hereunto subscribed my name, and caused the seal of the Department of the Interior to be affixed, the day and year first above written.

Harold L. Ickes
Secretary of the Interior

6009 (Last Name) Margold (First Name) Nathan (Middle Initial) R. (Department or Unit) Petroleum Administrative Board, Department of the Interior.

Title or Position Chairman Date of Appointment Jan. 24, 1934 Annual Salary $9,000 gross.

Local Home Address 2145 C Street N. W. Phone National 5848 State of Legal Residence New York.

Education—State Number of Years:

Grade School	8
High School	4
College	4
Business School	----
Correspondence School	----
School (Law)	3

Age 34 Married

Appointed at Request of: Secretary of the Interior, Harold L. Ickes.

Or Endorsed by _____

Last Government Service Department Justice Position Assistant United States Attorney Date Released Sept. 1928. Annual Salary $3,000.

Last Position Other Than Government Service Company Attorney in private law practice Date Released ..... Annual Salary

Is Your Husband or Wife in Government Service No If so Where Employed ..... Annual Salary .....

Describe Duties Now Being Performed: Executive chief attorney and senior executive officer of the Petroleum Administrative Board, charged by the Secretary of the Interior with executive direction of and responsibility for the Board's actions in connection with the administration and enforcement of the Code of Fair Competition for the Petroleum Industry. Exceptionally wide latitude for independent or unreviewed action or decision on complex legal and administrative questions and functions as deputy administrator of the oil industry.

Primarily responsible as the professional head of a large group of attorneys of several grades, engaged in responsible legal work covering an exceptionally wide range of difficult subject matter, including almost every conceivable type of legal case from routine work to the most difficult, very important and extremely complex cases involving the validity of policies established by the Secretary of the Interior and the President and the constitutionality of the National Industrial Recovery Act and regulations promulgated thereunder by the President and the Secretary.

Responsible to the Secretary for the functioning of the Petroleum Administrative Board and the difficult complexities of the work it does which is of vital importance to the national welfare. Administrative duties requiring virtually unlimited exercise of independent judgment with respect to organization and expenditures as Chairman of the Petroleum Administrative Board which is charged with advising and consulting with the Secretary of the Interior in carrying out the highly momentous policies decided upon in the conservation and utilization of the national petroleum resources. Holds hearings and conferences and carries on correspondence in connection with the most important of these matters.

Chairman.

6010 DEFENSE EXHIBIT NO. 989.

6011 Stipulation

It Is Hereby Stipulated that J. W. Steele, Chairman of the Federal Tender Board No. 1 at Kilgore, Texas, if called as a witness in the above entitled action, would testify that the records of said Federal Tender Board show the names of those East Texas refineries operating on federal tenders during the months between March 1, 1935 and December 31, 1936, inclusive, to be as set forth in Exhibit A hereto annexed.

6012

EXHIBIT A.

EAST TEXAS REFINERIES OPERATING ON FEDERAL TENDERS

March 1, 1935 to December 31, 1936
(By Plants By Months)

Plant	Location	Months Operated On Federal Tenders
Alton	Gladewater	June—July 1935
Arrow	Overton	March—May 1935
Beacon	Henderson	March—November 1935 inclusive January—March 1936 inclusive May 1936
Cascade	Kilgore	August—December 1935 inclusive January—June 1936 inclusive August—December 1936 inclusive
Century	Arp	April—November 1935 inclusive
Chief	Gladewater	March—December 1935 inclusive
Condor	"	June—July 1935
Central	"	January—February 1936
Danciger	Longview	February—December 1936 inclusive
Dominant	Kilgore	October—November 1935
East Texas Cracking	Greggton	June—July 1935
East Texas	Longview	March—December 1935 inclusive January—December 1936 inclusive
Gilliland	Gladewater	March—September 1935 inclusive January—March 1936 inclusive
Plant name changed to—		
General American	Gladewater	June—December 1936 inclusive
Gilliland	Overton	June—December 1935 inclusive January—May 1936 inclusive

6013

Plant name changed to—		
General American	Overton	June—December 1936, inclusive
Gilmer	Gladewater	May 1935
Gilliland	Arp	April—May 1936
Plant name changed to—		
General American	Arp	June—December 1936 inclusive
Hurricane	Overton	August—December 1935 inclusive January—December 1936 inclusive
Hurricane	Arp	May—December 1936 inclusive
Johnston-Burnham	Kilgore	June—August 1935 inclusive
Plant name changed to—		
Kilgore	Kilgore	August—December 1936 inclusive
La Pren	"	March—June 1935

Plant	Location	Months Operated On Federal Tenders
Lone Star	Gladewater	March—April 1935 inclusive
Lyle	Henderson	July—September 1935 inclusive
Matthews	Gladewater	September—October 1935
McMurray	Arp	June—September 1935 inclusive November—December 1935 January—May 1936 inclusive
Ocean	Kilgore	July—December 1935 inclusive January—February 1936 April 1936
Oil	Overton	March—July 1935 inclusive
Overton	"	May 1935
6014		
Petroleum Cracking	Greggton	December 1935
Premier	Willow Springs	July—December 1935 inclusive January—December 1936 inclusive
Riverside	Gladewater	July—August 1935
Swastika	Kilgore	March—April 1935
Southport	"	March—December 1935 inclusive
Solvex	Gladewater	November—December 1935 inclusive January—December 1936 inclusive
Sinclair	"	March—December 1935 inclusive January—December 1936 inclusive
Texas Oil Products	"	March—December 1935 inclusive January—May 1936 inclusive
Texover	Overton	March—July 1935 inclusive
Trinity	Gladewater	December 1935 January—October 1936 inclusive December 1936
Trio	Arp	March—December 1935 inclusive January—April 1936 inclusive
Tyreco #1	"	March—April 1935
Tyreco #2	Overton	March 1935 May—December 1935 inclusive January—March 1936 inclusive
Tower	"	March—December 1936 inclusive
Utah	Kilgore	April 1935
Wabash	Gladewater	June—October 1935 inclusive

6015 **DEFENSE EXHIBIT NO. 990.**

6016 It Is Hereby Stipulated that James D. Miller, if called as a witness in the above entitled action, would testify that the quantities of gasoline manufactured and sold by Dickey Oil and Refining Company by months from January 1, 1934 to December 31, 1936, inclusive, as reflected by the books and records of Dickey Oil and Refining Company, are as set forth in Exhibit A hereto annexed; and that said records further show that during 1934 73.1% of the total gasoline sold by the Company was shipped by truck, and 26.9% was shipped by tank car, and that during the first two months of 1935 58.7% of the total gasoline sold by the Company was shipped by truck and 41.3% was shipped by tank car.

As so stipulated, said figures are received in evidence in the above entitled action without objection.

6017 **EXHIBIT A**

Dickey Oil and Refining Co.

Gasoline Production and Sales
In Gallons
January 1st, 1934 through December 31, 1936

1934	Gasoline Production	Gasoline Sales
January	549,570	864,150
February	1,196,160	601,734
March	736,092	1,023,834
April	1,019,508	950,334
May	1,091,790	1,178,898
June	1,105,902	1,391,208
July	1,226,988	1,224,258
August	769,902	956,004
September	1,463,826	1,052,226
October	502,530	853,398
November	743,904	759,696
December	1,085,154	1,199,310
	11,491,326	12,055,050

	Gasoline Production	Gasoline Sales
1935		
January	929,208	678,804
February	947,748	1,194,816
March	1,076,536	1,149,002
April	1,311,232	1,151,630
May	1,627,800	1,566,900
June	1,428,572	1,450,396
July	1,333,732	1,477,036
August	1,457,036	1,274,294
September	1,508,767	1,416,577
October	1,463,893	1,466,867
November	661,710	898,537
December	1,522,738	1,002,590
	15,268,972	14,727,449
1936		
January	1,103,512	1,066,217
February	482,089	803,896
March	1,371,389	1,393,835
April	1,292,768	1,325,993
May	1,161,722	1,256,050
June	1,200,850	1,252,398
July	1,554,977	1,394,342
August	1,219,495	1,207,671
September	1,346,518	1,143,468
October	1,244,982	1,139,819
November	982,031	1,169,847
December	993,405	952,864
	13,953,738	14,106,400

6018 DEFENSE EXHIBIT NO. 991.

6019 It is hereby stipulated that M. A. Chambers of Panhandle Producing & Refining Company, of Wichita Falls, Texas, if called as a witness in the above entitled action, would testify that the quantities of gasoline manufactured and sold by Panhandle Producing & Refining Company by months from January 1, 1934 to December 31, 1936, inclusive, as reflected by the books and records of Panhandle Producing & Refining Company, are as set forth in Exhibit A hereto annexed.

As so stipulated, said figures are received in evidence in the above entitled action without objection.

6020 EXHIBIT A.

Panhandle Producing and Refining Company
Wichita Falls, Texas

	Gasoline Production (In Gallons)	Gasoline Sales
1934		
January	2,134,792	2,107,987
February	2,331,290	2,010,138
March	2,282,806	2,680,740
April	1,726,574	1,778,399
May	2,321,706	2,568,099
June	2,700,516	2,386,723
July	2,370,450	2,178,563
August	2,219,849	2,392,647
September	2,288,534	2,181,195
October	2,281,682	1,955,401
November	1,929,963	1,900,936
December	2,030,991	2,165,014
Total 1934	26,519,153	26,305,842

	Gasoline Production (In Gallons)	Gasoline Sales
1935		
January	2,043,967	1,856,829
February	1,637,989	2,258,673
March	2,743,299	2,361,174
April	2,314,530	2,691,379
May	2,579,281	2,461,253
June	2,720,712	2,680,578
July	2,792,184	2,933,285
August	2,770,105	2,591,536
September	2,639,419	2,560,623
October	2,358,607	2,445,490
November	2,475,739	2,237,168
December	2,393,818	2,382,990
Total 1935	29,469,650	29,460,978
1936		
January	2,267,340	2,598,968
February	2,177,280	1,862,655
March	2,252,558	2,609,890
April	2,835,473	2,668,041
May	3,017,465	2,829,796
June	3,317,820	3,441,631
July	3,524,459	3,341,500
August	3,168,772	3,291,397
September	2,968,503	2,705,855
October	3,146,065	3,407,614
November	2,993,703	2,710,392
December	2,634,676	2,758,819
Total 1936	34,304,114	34,226,558

	Total Sales	Sales to Own Bulk Plants	Per Cent	Other Sales	Per Cent
1934	26,305,842	10,891,710	41.4	15,414,132	58.6
1935	29,460,978	12,634,039	42.9	16,826,939	57.1
1936	34,226,558	17,440,474	51.0	16,786,084	49.0

6021 **DEFENSE EXHIBIT NO. 992.**

6022 It Is Hereby Stipulated that M. P. Appleby, Vice-President and Treasurer of Wilcox and Gas Company of Tulsa, Oklahoma, if called as a witness in the above entitled action, would testify that the quantities of gasoline manufactured and sold by Wilcox Oil and Gas Company by months from January 1, 1934 to December 31, 1936, inclusive, as reflected by the books and records of Wilcox Oil and Gas Company, are as set forth in Exhibit "A" hereto annexed; that during the above years approximately sixty-seven (67%) percent of the gasoline sold by the company was distributed through its bulk stations which were located in Texas, Oklahoma, Missouri and Kansas; and that during the months of April, May and June 1934, the company was not operating its refinery.

As so stipulated, said figures are received in evidence in the above entitled action without objection.

6023 **EXHIBIT A.**

H. F. Wilcox Oil & Gas Company
Tulsa, Oklahoma

	Gasoline Production (In Gallons)	Gasoline Sales
1934		
January	2,055,438	2,151,240
February	1,182,048	1,363,446
March	2,530,542	1,872,612
April	17,472 (Shown in red)	1,001,910
May	5,292 " " "	273,294
June	9,954 " " "	31,752
July	486,654	132,468
August	1,498,518	1,096,998
September	1,990,128	1,181,628
October	1,169,490	1,342,362
November	1,795,794	1,751,862
December	1,535,142	1,345,890
Total 1934	14,211,036	13,545,462

	Gasoline Production (In Gallons)	Gasoline Sales
1935		
January	1,842,414	1,211,616
February	1,101,996	1,525,818
March	524,328	1,004,892
April	30,576	1,151,892
May	1,023,540	809,886
June	1,771,560	1,647,618
July	2,292,822	2,269,092
August	1,908,648	1,774,500
September	2,069,214	2,094,876
October	1,804,362	1,930,446
November	1,895,544	1,451,562
December	2,079,546	1,928,304
Total 1935	18,344,550	18,800,502
1936		
January	1,959,216	1,882,944
February	1,912,344	1,429,260
March	1,720,740	1,905,624
April	2,047,920	1,963,878
May	2,128,224	2,220,036
June	1,293,642	2,338,602
July	2,337,804	2,314,158
August	2,349,480	1,939,686
September	1,780,716	2,093,028
October	1,956,234	1,816,290
November	1,674,582	1,795,458
December	1,921,668	1,884,162
Total 1936	23,082,570	23,583,126

6024 **DEFENSE EXHIBIT NO. 993.**

For Identification.

(Certified by the Department of the Interior to be copy of a letter dated April 30, 1935, signed by Paul G. Blazer and addressed to Charles Fahy.)

6025 Ashland Refining Company
Incorporated
Ashland, Kentucky

April 30, 1935.

Mr. Charles Fahy, Chairman
Petroleum Administrative Board
Department of the Interior,
Washington, D. C.

Dear Mr. Fahy:

Referring to your wire of yesterday inquiring as to whether it would be agreeable to our Committee for you to publish the substance of our recent exchange of telegrams, I have communicated with a majority of the members of the Committee and have obtained their approval.

It has been suggested, though, that it be clearly understood that our Committee in going on record that there is no need for a reduction in crude oil prices at this time is acting on the belief that small additional advances will be made in both tank-car and retail prices of gasoline.

It appears to be the opinion of a majority of the Committee that at least another quarter cent advance in tank-car prices is essential and that if such an advance should not occur within the near future, a decline of approximately 5¢ per barrel should be made in crude oil prices.

A tank-car price of 5.4¢ for gasoline figures approximately $1. per barrel for crude oil on the basis of 1 to 18.5 ratio, but attention has been called to the fact that the 63-70 octane gasoline, which is now quoted at 5⅜¢ average price, is a better quality product than that on which the 18.5 to 1 ratio was based. In fact, except for an error in the original calculations, the ratio would have read 17.8 to 1. Also, it is pointed out that quotations for ordinary U. S. Motor gasoline (comparable to present bracket of below 62 octane gasoline) were used during a part of the period on which the calculations were based.

The foregoing might indicate that an advance of more

than ¼¢ per gallon in tank-car prices is proper, but I
6026 believe that refiners should be satisfied with a full quarter cent.

As you know, retail prices have not advanced equally in all areas. In some territories prices have advanced a full 1¢ above the levels which prevailed at the time our report was written, but in other sections there has been no advances, I believe; in Standard of Indiana territory, where retail prices bear an especially close relationship to Mid-Continent tank-car prices and crude oil prices, the advance, I believe, has been only .6¢.

Our Committee has been very much pleased with the success of the program to stabilize tank-car markets. We believe it has been handled in a manner calculated to benefit the non-integrated refiners and without disadvantage to marketers. Of course, the real question is whether, after parity of gasoline and crude oil prices has been obtained, they can be maintained without excessive continued buying by the major companies. It is the opinion of our Committee that the final answer to that question will be determined by the effectiveness of efforts to balance crude oil supply and demand. I believe I can speak for our entire Committee when I say that we believe fundamental conditions in the industry have been sufficiently improved to bring about and maintain prices for finished products which will justify $1.00 crude oil.

Cordially yours,

(sgd) Paul G. Blazer.

PGB*MEH

6027 **DEFENSE EXHIBIT NO. 994.**

For Identification.

(Certified by the Department of the Interior to be copy of duplicate original of a letter dated May 7, 1935, sent by the Chairman of the Petroleum Administrative Board to Paul G. Blazer.)

6028 DEPARTMENT OF THE INTERIOR
Petroleum Administrative Board
Washington

May 7, 1935.

Mr. Paul G. Blazer, President,
Ashland Refining Company,
Ashland, Kentucky.

My dear Mr. Blazer:

I am writing to acknowledge your letter of April 30 and to express my appreciation of your courtesy in having the Committee render its informal opinion regarding the present relationship between crude oil prices and prices of petroleum products. The substance of the telegrams which we exchanged, amplified somewhat by your letter, has been included in a press statement prepared for today's release.

I am enclosing a sufficient number of copies of this statement so that you may forward a copy to each member of your Committee, should you so desire. I wish to assure you that particular care was taken to have this statement reflect properly the informal opinion of your Committee.

Yours sincerely,
Signed personally
Chairman.
May 7, 1935.

6029 **DEFENSE EXHIBIT NO. 995.**

Letterhead of Administrator for the Petroleum Industry, Washington.

Mar. 30, 1935.

Mr. B. P. Lientz,
B. P. Lientz & Company,
3409 East 18th Street,
Kansas City, Missouri.

My dear Mr. Lientz:

In response to your letter of March 22 I am enclosing a copy of the report of the Petroleum Code Survey Committee on Small Enterprise, which I believe will be of interest to you.

Although you state that it is difficult for you to be specific and analyze the situation in a letter because of the likely repetition of information, it occurs to me that after you have read the report of the Committee on Small Enterprise you may have other instances of small enterprise abuse which you may care to relate.

You referred to a meeting about a year ago at which Mr. Howard Bennette discussed the poor marketing practices of the oil industry before a group of oil executives. I have inquired as to whether we had a representative at such a meeting and have been informed that the Petroleum Administrative Board has no information on that meeting. Since Mr. Bennette has died any record of the meeting probably passed with his memory. I am, however, of the opinion that Mr. Bennette was thoroughly alive to the poor marketing practices of the industry, and quite likely any statement which he made would bear out a very substantial amount of the comments made by the Committee on Small Enterprise.

Concerning the independent refiners, other than those in California, it appears from the report of the Committee on Small Enterprise that the outstanding difficulty is due to the disparity between posted crude oil prices and refinery realizations. This situation has been deplorable for many months, but it is my understanding that at present the activity of the Stabilization Committees is having a distinct effect in the improvement of refinery prices, and that
6030 were it not for old contracts, many of which are badly shaded with respect to the posted price, the independent refiner is approaching a normal market structure.

In California the refiners' prices of gasoline have not been particularly subnormal at any time since the Agreement became effective. There, however, has been complaint of the lack of differentials, and that problem is receiving consideration.

As I stated in my letter of March 6, I appreciate your interest in the petroleum problem and I should like to have your personal comments when you visit Washington if it is possible for me to free myself from other demands. Should I be unable to see you, please call on Mr. Charles Fahy, Chairman of the Petroleum Administrative Board, who will gladly discuss the problems of the industry with you, and who will report to me anything with which I am not already conversant.

Sincerely yours,
Harold L. Ickes,
Administrator.

Inclosure

6031 DEFENSE EXHIBIT NO. 996.

Telegram.

Washington, D. C.
January 6, 1938

R A Irvine
No 1 West Main St
Madison Wis

Allocation of positions to salary grades based on job sheets, certified copies of which were forwarded you yesterday, describing duties of John W. Frey, Edward B. Swanson, Norman L. Meyers and J. Howard Marshall as members of Petroleum Administrative Board, effective as of February 1, 1935, was approved by me January 28 1935

Harold L. Ickes,
Secretary of the Interior.

6032 DEFENSE EXHIBIT NO. 997.

6033 It is hereby stipulated that Harold F. Parsons if recalled by the defense would testify as stated on the annexed sheet entitled "Tide Water Oil Company of N. J." and that he would testify that the schedules annexed to said statement (consisting of five pages of typewritten matter) contain true and accurate data taken from the records of the companies referred to on said schedules. Dated, January 11, 1938.

6034 Tide Water Oil Company of N. J.

To supply the gasoline requirements of its market outlets on the Atlantic Seaboard, Tide Water Oil Company (N. J.) owned and operated only one Refinery, that located at Bayonne, N. J.

For the last ten years and longer, Tide Water's Bayonne Refinery has been operated at its maximum capacity without exception for any period.

In no one year was the Bayonne Refinery able to produce enough gasoline to meet Tide Water's sales requirements of its Branded Gasoline.

Over the last ten years ending in 1936, Tide Water's sales of Branded Gasolines exceeded the Bayonne Refinery production of gasoline by an average of 29.5%.

Over the last five years, though the capacity and actual gasoline production of the Bayonne Refinery has been stepped up steadily, it has been necessary in order to meet sales requirements to supplement this production by purchases of different grades of gasoline totaling 32% of Tide Water's sales in 1932, 23% in 1933, 19% in 1934, 14% in 1935 and 16% in 1936.

Tide Water's sales of gasoline on the Eastern Seaboard totaled 341,700,000 gallons in 1932, 356,500,000 gallons in 1933, 372,500,000 gallons in 1934, 380,500,000 gallons in 1935 and 406,700,000 gallons in 1936.

TIDE WATER OIL COMPANY OF N. J.

Total Refinery Gasoline Production and Eastern Seaboard Sales

	Production of Gasoline Bayonne Refinery		Sales of Gasoline Eastern Div.		Intra-Company* Consumption Barrels	Shortage** Prod.-Sales, etc. Barrels	Purchase of Gasoline All Grades		Inventories of Gasoline End of Year		
	Total Bbls.	% Increase	Total Bbls.	% Increase			Tot. Bbls.	% of Sales	Total Bbls.	Days Supply***	Increase Bbls.
1932	5,582,394		8,136,474		103,391	2,657,471	2,583,782	31.8	795,001	36	(Red) 73,689
1933	6,771,725	21.3	8,489,177	4.3	144,344	1,861,796	1,922,398	22.6	855,603	36	60,602
1934	7,538,843	11.2	8,869,883	4.5	226,727	1,557,767	1,693,590	19.1	991,426	40	135,823
1935	7,909,985	4.9	9,060,079	2.1	185,769	1,335,773	1,302,664	14.3	958,317	38	(Red) 33,109
1936	8,383,704	6.0	9,682,610	6.9	132,333	1,431,239	1,534,338	15.8	1,061,416	40	103,099

NOTES:—

*Intra-Company Requirements—Includes Sales Depts. and Refinery Trucks and Automobiles consumption and Evaporation and Handling Losses.

**Shortage—Difference between Refinery Production and Sales plus Intra-Company Requirements.

***Days Supply—Calculated on Average Day's Sales for the Year.

	Gasoline Sales—% Ratios				Gasoline Sales—% Distribution		
	Ethyl (Premium)	Tydol (Regular)	Tidex (3rd Grade)	Total (Branded)	Direct	Jobbers	Total
1932	8.7	89.8	1.5	100.0	71.0	29.0	100.0
1933	4.8	90.3	4.9	100.0	70.4	29.6	100.0
1934	4.3	91.8	3.9	100.0	69.2	30.8	100.0
1935	4.6	93.2	2.2	100.0	66.8	33.2	100.0
1936	6.2	90.9	2.9	100.0	64.1	35.9	100.0

12/27/37

Inventories—All Grades of Gasoline

	1931	1932	1933	1934	1935	1936
Finished Gasoline Inventory, 12/31	788,341	743,040	783,632	962,924	832,591	1,024,509
Natural	80,349	51,961	71,971	28,502	125,726	36,907
Total Eastern Inventory	868,690	795,001	855,603	991,426	958,317	1,061,416
Eastern Gasoline Sales—Total		8,136,474	8,489,177	8,869,883	9,060,079	9,682,610
Per Day		22,231	23,258	24,301	24,822	24,455
Year-End Inventory: Day's Supply Basis of Year's Average Per Day		36	36	40	38	40

12/27/37

3752 Defense Exhibit No. 997.

TIDEWATER OIL COMPANY OF N. J.

Inventories—Finished Gasoline

Bayonne Refinery, Water Terminals and Bulk Plants

	Total Barrels	Day's Supply*
December 31, 1931	788,341	47
December 31, 1932	743,040	45
December 31, 1933	783,632	41
December 31, 1934	962,924	57
December 31, 1935	832,591	45
December 31, 1936	1,024,509	49

Natural Gasoline Inventories not Included
Total Barrels

December 31, 1931	80,349
December 31, 1922	51,961
December 31, 1933	71,971
December 31, 1934	28,502
December 31, 1935	125,726
December 31, 1936	36,907

	1935		1936		Natural Gasoline Inventories Not Included	
	Total Barrels	Day's Supply*	Total Barrels	Day's Supply*	1935 Total Barrels	1936 Total Barrels
January	1,150,652	68	1,010,756	60	32,975	81,064
February	1,420,001	68	1,145,886	56	59,157	72,696
March	1,446,668	62	1,238,624	50	47,864	135,460
April	1,424,549	56	1,420,725	49	106,696	134,770
May	1,380,733	50	1,322,237	45	105,995	133,325
June	1,346,921	45	1,335,282	40	96,608	123,612
July	1,269,774	41	1,214,317	38	72,101	110,181
August	1,165,602	43	1,151,054	37	27,255	83,067
September	1,086,681	39	1,034,593	36	28,924	23,717
October	923,615	34	1,030,318	38	1,212	71,774
November	826,097	34	1,010,918	39	52,837	56,390
December	832,591	45	1,024,509	49	125,726	36,907

NOTE:—*Day's Supply—Calculated on Average Day's Sales for the Ensuing Month.
12/27/37

6038 **TIDE WATER OIL COMPANY OF N. J.**
TIDE WATER OIL COMPANY OF OKLA.

	Net Crude*	Refinery Crude Runs**			
		Bayonne	Drumright	Total	
	Production Bbls. Per Day	Bbls. Per Day	Bbls. Per Day	Bbls. Per Day	% Produced
1932	14,872	39,761	7,806	47,567	31.2
1933	22,963	42,392	9,100	51,492	44.5
1934	22,278	44,924	9,795	54,719	40.7
1935	26,828	47,693	10,781	58,474	45.9
1936	31,138	52,594	10,981	63,575	48.9

NOTE:—

*Crude Production: All Crude was produced by Tide Water Oil Company of Okla. with exception of Pennsylvania Crude—amounting to less than 1,000 barrels per day—produced by Tide Water Oil Company of N. J.

**Refinery Crude Runs: By the Bayonne, N. J. Refinery of Tide Water of N. J. and the Drumright, Oklahoma Refinery of Tide Water of Okla.

12/27/37

6039 **TIDE WATER OIL COMPANY OF OKLA.**

Drumright, Oklahoma Refinery
Gasoline Production, Purchases and Inventories Mid-Continent Division—
Gasoline Sales

	In Barrels Finished Gasoline Production (Includes Natural Blended)		
	1934	1935	1936
January	198,060	176,659	237,648
February	174,177	164,272	223,092
March	170,775	192,731	175,771
April	220,351	196,983	194,680
May	181,907	209,798	215,267
June	244,223	212,285	219,438
July	206,269	237,417	235,030
August	217,315	262,102	258,132
September	218,125	260,273	272,017
October	207,521	258,548	260,717
November	215,118	243,265	260,346
December	201,392	180,745	140,114
Total	2,455,233	2,595,078	2,692,232
(Natural Gasoline (Blended Included Above	331,068	382,055	481,430)

Finished Gasoline Sales

	1934	1935	1936
January	212,982	164,340	198,210
February	170,981	160,437	146,025
March	188,311	190,861	202,490
April	191,048	217,816	237,061
May	217,568	220,866	246,710
June	228,219	230,246	260,341
July	234,476	279,000	276,325
August	233,549	283,225	259,681
September	210,393	248,458	255,420
October	230,055	249,990	253,250
November	227,249	212,639	221,320
December	173,827	191,402	209,085
Total	2,518,658	2,649,280	2,765,918

Gasoline Sales—% Grades

	Ethyl (Premium)	Tydol (Regular)	Tidex (3rd Grade)	Total
1932	9.7	72.2	18.1	100.0
1933	3.6	75.1	21.3	100.0
1934	1.7	80.7	17.6	100.0
1935	1.2	86.2	12.6	100.0
1936	1.3	88.5	10.2	100.0

12/27/37

6040

Motor Gasoline Purchases			Natural Gasoline Purchases		
1934	1935	1936	1934	1935	1936
2,020	1,584	1,312	28,515	27,329	50,325
3,883	2,856	1,587	24,706	31,456	42,165
6,935	2,215	2,260	24,187	20,018	40,742
4,402	1,816	1,541	25,369	21,019	45,337
3,488	6,161	1,307	14,046	23,199	35,189
11,673	1,487	1,689	18,182	24,293	32,117
16,666	3,993	1,539	13,187	29,171	34,906
10,875	2,671	1,448	20,284	30,168	46,599
9,177	3,153	1,451	29,093	32,593	52,475
9,210	1,734	1,415	37,815	35,722	56,759
3,883	1,403	1,448	48,724	46,350	46,157
3,252	1,645	1,950	42,697	59,577	51,655
85,464	30,718	18,947	326,805	380,895	534,426

Finished Gasoline Inventories: Barrels			Day's Supply*		
1934	1935	1936	1934	1935	1936
99,464	130,857	145,581	14	25	23
102,071	138,072	232,071	17	25	46
89,261	140,762	205,024	15	23	32
122,214	120,738	171,286	19	17	22
89,143	110,571	141,048	13	16	18
117,452	96,334	103,571	15	13	12
103,881	58,548	64,357	14	6	7
96,667	46,381	64,881	13	5	8
112,928	62,524	83,071	16	8	10
97,000	64,714	98,762	13	8	12
88,643	109,929	134,262	12	16	18
118,[illegible]7	101,524	67,596	21	17	10

Gasoline Sales—% Distribution		
Direct	Jobbers	Total
9.4	90.6	100.0
11.5	88.5	100.0
10.2	89.6	100.0
8.8	91.2	100.0
9.3	90.7	100.0

NOTE:—*Day's Supply—Calculated on Average Day's Sales for the Ensuing Month.

12/27/37

6041 DEFENSE EXHIBIT NO. 998.

Stipulation as to the testimony of R. E. Everitt, Secretary of the Globe Oil & Refining Company (Oklahoma), Assistant Secretary of the Globe Oil & Refining Company (Kansas) and (Illinois), and chief accounting officer of the Globe Oil & Refining Company (Oklahoma) and (Kansas) authenticating Exhibits 999, 1000, 1002, 1003; setting out:

That minimum working stocks as determined by the Code Authority under the Petroleum Code, for The Globe Oil and Refining Company (Illinois) was 45,000 barrels; and for the Globe Oil & Refining Company (Oklahoma) and The Globe Oil & Refining Company (Kansas) combined, was 68,000 barrels.

That in 1935 and 1936 none of the Globe Oil and Refining Companies owned, controlled or operated any service stations, bulk plants or other marketing facilities; nor owned, controlled or operated any pipe-lines except local gathering systems in the fields adjoining their respective refineries.

6042 **DEFENSE EXHIBIT NO. 999.**

6043 **THE GLOBE OIL & REFINING COMPANY**
Oklahoma

Gasoline Production, Purchases, Shipment & Inventory 1-1-33 to 8-31-37

Date	Gasoline Production Barrels	Refined Gasoline Purchases Barrels	Natural Gasoline Purchases Barrels	Gasoline Shipments Barrels	Gasoline Inventory Barrels
1933					
Jan.	85,750		5,819	98,808	91,031
Feb.	83,113		5,176	109,846	68,044
Mar.	100,692		5,981	106,410	69,737
Apr.	86,182	8,677	7,253	126,317	45,532
May	92,991	4,030	3,255	101,469	44,339
June	83,415	6,843	2,946	119,470	18,073
July	93,498	11,940	5,638	94,359	34,790
Aug.	101,771	768	7,522	114,217	30,634
Sept.	94,780	10,459	11,991	91,668	56,196
Oct.	92,683		13,144	80,383	81,640
Nov.	66,422		6,277	69,275	85,064
Dec.	56,718	567	9,021	60,356	89,880
	1,038,015	42,150	84,023	1,172,578	
1934					
Jan.	87,975		14,786	87,950	104,691
Feb.	83,142		7,979	67,469	128,343
Mar.	68,999		9,035	78,905	127,472
Apr.	74,187		11,708	90,841	122,526
May	69,074		10,953	84,732	117,821
June	38,438		9,658	67,591	98,326
July	79,628		14,780	102,501	90,233
Aug.	33,108		8,053	61,305	70,089
Sept.	7,012		8,105	49,794	35,412
Oct.	48,067		14,089	76,842	20,746
Nov.	30,699		7,165	36,865	21,745
Dec.	702		1,360	14,653	7,750
	619,647		117,671	819,448	
1935					
Jan.	335			3,283	4,132
Feb.	250	2,541		2,594	3,829
Mar.	466	15,688	193	16,324	2,920
Apr.	706	23,959		22,101	4,072
May	39,414	11,337	8,231	36,427	26,627
June	89,797	386	9,962	69,921	56,851
July	84,129		18,142	114,286	44,836
Aug.	77,302	2,853	9,804	92,943	41,852
Sept.	66,882		12,523	88,958	32,299
Oct.	63,707		12,533	77,421	31,118
Nov.	70,603		9,502	53,647	57,576
Dec.	76,741		10,506	45,899	98,924
	566,818	56,764	91,396	623,804	

THE GLOBE OIL & REFINING COMPANY
Oklahoma

Gasoline Production, Purchases, Shipment & Inventory 1-1-33 to 8-31-37
Purchases

Date	Gasoline Production Barrels	Refined Gasoline Barrels	Natural Gasoline Barrels	Gasoline Shipments Barrels	Gasoline Inventory Barrels
1936					
Jan.....	69,244		8,027	41,091	135,104
Feb.....	980		588	6,078	128,634
Mar.....	879		966	21,973	106,748
Apr.....	72,489		21,931	113,430	87,738
May.....	82,918		7,802	72,213	106,245
June.....	71,476		4,524	88,358	93,887
July.....	67,527		4,871	116,268	50,017
Aug.....	71,418		5,275	99,434	27,276
Sept.....	81,009		6,141	64,688	48,738
Oct.....	6,050		6,517	30,433	30,872
Nov.....	655		2,904	9,820	23,301
Dec.....	190		1,946	13,233	11,824
	519,427		70,492	677,019	
1937					
Jan.....	71,283		4,092	12,868	74,331
Feb.....	72,621		12,489	28,993	130,448
Mar.....	87,577	974	9,714	133,873	94,840
Apr.....	90,531		8,329	106,004	87,696
May.....	99,142	19,132	9,626	149,654	65,942
June.....	94,066		2,608	111,691	50,925
July.....	90,074		8,636	115,668	33,967
Aug.....	95,493		12,336	112,258	29,538
	700,787	20,106	67,830	771,009	

6044 **THE GLOBE OIL AND REFINING COMPANY**

Illinois

Gasoline Production, Purchases, Shipments and Inventory. 1-1-33 to 8-31-37

Date	Gasoline Production Barrels	Purchases Refined Gasoline Barrels	Purchases Natural Gasoline & Benzol	Shipments Gasoline Barrels	Inventory Gasoline Barrels
1933					
Jan.	102,267		6,312	113,580	54,499
Feb.	86,261	976	5,630	105,287	42,079
Mar.	118,771	977	4,851	122,392	44,286
Apr.	96,339	12,721	7,319	129,307	31,357
May	94,179	4,049	5,857	87,853	47,588
Jun.	67,696	3,933	7,648	75,262	51,603
July	135,852	566	3,650	170,599	21,072
Aug.	149,898	6,965	5,976	165,649	18,262
Sept.	138,878	28,700	5,788	145,464	46,166
Oct.	188,999		4,161	191,264	48,062
Nov.	113,499	9,606	6,271	139,800	37,638
Dec.	126,648		4,670	117,532	51,424
Total.	1,419,287	68,493	68,133	1,563,989	
1934					
Jan.	131,856		3,115	157,539	28,856
Feb.	145,915		11,213	126,902	59,082
Mar.	133,275		9,455	142,465	59,347
Apr.	160,235	193	16,074	181,066	54,783
May	166,065	1,145	11,723	188,793	44,923
June	158,842	3,609	7,462	164,398	50,438
July	177,744		10,430	204,040	34,572
Aug.	176,173		10,224	186,143	34,826
Sept.	157,612	192	22,952	171,814	43,768
Oct.	172,503		24,431	219,290	21,412
Nov.	146,440	553	19,623	128,157	59,871
Dec.	138,409		19,317	147,556	70,041
Total.	1,865,069	5,692	166,019	2,018,163	
1935					
Jan.	143,271		14,189	129,944	97,557
Feb.	115,959		23,787	174,719	62,584
Mar.	165,473	3,275	16,336	202,759	44,909
Apr.	164,550	5,216	20,248	207,052	27,871
May	197,383	7,900	23,069	218,046	38,177
Jun.	171,991	13,620	23,954	217,841	29,901
July	196,826	6,673	28,423	232,586	29,237
Aug.	186,188	1,332	22,871	206,431	33,197
Sept.	185,511	2,096	21,956	186,723	56,037
Oct.	195,789	1,147	30,595	237,727	45,841
Nov.	152,265	4,025	25,163	201,594	25,700
Dec.	188,134	12,472	25,896	187,730	64,472
Total.	2,063,340	57,756	276,487	2,403,152	

THE GLOBE OIL & REFINING COMPANY
Illinois

Gasoline Production, Purchases, Shipments & Inventory 1-1-33 to 8-31-37
Purchases

Date	Gasoline Production Barrels	Refined Gasoline Barrels	Natural Gasoline & Benzol	Shipments Gasoline Barrels	Inventory Gasoline Barrels
1936					
Jan.....	172,356	2,132	14,313	143,793	109,481
Feb.....	150,326	3,346	9,247	113,554	158,846
Mar.....	147,845	2,319	22,086	208,252	122,844
Apr.....	208,123	3,653	24,402	227,101	131,921
May.....	217,619	1,910	32,181	260,818	122,813
Jun.....	183,382	3,237	31,573	277,021	63,984
July.....	223,672	3,418	36,964	288,426	39,612
Aug.....	195,724	23,130	25,074	236,238	47,302
Sept.....	227,426	15,811	28,823	245,942	73,420
Oct.....	249,511	2,109	48,434	280,247	87,227
Nov.....	252,226	779	41,682	236,740	145,174
Dec.....	213,853		24,128	227,942	155,213
Total..	2,442,063	61,844	338,907	2,752,074	
1937					
Jan.....	233,144		21,680	199,141	210,896
Feb.....	219,008	4,327	9,623	193,293	250,561
Mar.....	214,508	12,846	32,606	288,561	221,960
Apr.....	249,884	5,718	60,562	337,414	200,710
May.....	229,720	8,537	86,302	360,783	164,486
Jun.....	239,099	759	55,880	334,120	126,104
July.....	259,244	20,671	68,424	329,987	144,456
Aug.....	223,091	26,936	45,330	310,891	128,922
Total..	1,867,698	79,794	380,407	2,354,190	

DEFENSE EXHIBIT NO. 1000.

THE GLOBE OIL & REFINING COMPANY—OKLAHOMA

Purchases of Refined Gasoline and Natural Gasoline

Jan. 1, 1930 to Aug. 31, 1937

Purchased From	Total Cars	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
1930													
Bartles Maguire	1	—	—	—	—	—	—	—	—	—	1	—	—
Total Refined Gaso	1	—	—	—	—	—	—	—	—	—	1	—	—
Natural Gasoline	614	43	37	46	46	51	49	58	45	53	58	44	84
1931													
Bartles Maguire	1	—	—	—	—	—	—	—	1	—	—	—	—
Capital Prod. & Refg	5	—	—	—	—	—	—	5	—	—	—	—	—
Shell Petr. Corp	10	—	—	—	10	—	—	—	—	—	—	—	—
Kanotex Refining Co	8	—	—	—	—	—	—	8	—	—	—	—	—
Radio Petrl. Co	12	—	—	—	—	—	—	5	7	—	—	—	—
Taylor Refg. Co	50	—	—	—	—	—	—	2	48	—	—	—	—
Total Refined Gaso	86	—	—	—	10	—	—	20	56	—	—	—	—
Natural Gasoline	788	69	67	93	70	68	68	46	47	50	74	91	45
1932													
W. H. Barber Co	1	1	—	—	—	—	—	—	—	—	—	—	—
Total Refined Gaso	1	1	—	—	—	—	—	—	—	—	—	—	—
Natural Gasoline	515	58	34	45	37	38	29	28	45	39	70	64	28

1933													
Cosden Oil Co	25	—	—	—	—	—	—	25	—	—	—	—	—
Cushing Refg. & Gaso	15	—	—	—	—	—	—	15	—	—	—	—	—
Danciger Refineries	20	—	—	—	—	—	—	20	—	—	—	—	—
Dickey Refining Co	4	—	—	—	—	—	—	—	4	—	—	—	—
Empire Oil & Refg. Co	30	—	—	—	30	—	—	—	—	—	—	—	—
Johnson Oil & Refg	30	—	—	—	15	—	—	—	—	15	—	—	—
Security Petr. Co	40	—	—	—	—	—	—	—	—	40	—	—	—
J. D. Streett & Co	57	—	—	—	21	—	36	—	—	—	—	—	—
Total Refined Gaso	221	—	—	—	66	—	36	60	4	55	—	—	—
Natural Gasoline	444	30	27	31	41	17	15	30	40	63	70	33	47
1934													
No Purchases of Refined Gasoline													
Natural Gasoline	617	77	42	47	61	57	50	78	45	42	74	37	7
1935													
Cushing Refg. & Gaso	33	—	13	5	15	—	—	—	—	—	—	—	—
Eason Oil Co	25	—	—	—	25	—	—	—	—	—	—	—	—
East Texas Refg. Co	10	—	—	—	—	—	—	—	10	—	—	—	—
Marimac Oil Co	5	—	—	—	—	—	—	—	5	—	—	—	—
Omar Refining Co	206	—	—	90	100	16	—	—	—	—	—	—	—
H. F. Wilcox Oil & Gas	15	—	—	—	15	—	—	—	—	—	—	—	—
Total Refined Gaso	294	—	13	95	155	16	—	—	15	—	—	—	—
Natural Gasoline	482	—	—	1	—	43	52	95	54	66	66	50	55

1936													
No Purchases of Refined Gasoline													
Natural Gasoline	372	42	3	5	115	41	24	26	31	28	34	13	10
1937													
Dickey Refining Co	25	—	—	—	—	25	—	—	—				
Eason Oil Co	80	—	—	5	—	75	—	—	—				
Total Refined Gas	105	—	—	5	—	100	—	—	—				
Natural Gasoline	356	23	65	50	44	50	14	45	65				

Purchases of Refined Gasoline Natural Gasoline and Benzol

Jan. 1, 1933 to Aug. 31, 1937

Purchased From	Total Cars	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
1933													
Acme Petr. Co.	19	—	—	—	—	—	—	—	19	—	—	—	—
Altitude Pet. Co.	10	—	—	—	—	10	—	—	—	—	—	—	—
American Pet. Co.	54	—	—	—	—	—	5	3	26	20	—	—	—
W. H. Barber Co.	9	—	—	—	9	—	—	—	—	—	—	—	—
Gustafson Bros.	1	—	—	—	—	—	—	—	—	1	—	—	—
Industrial Pet. Corp.	2	—	—	—	—	—	—	—	—	—	—	2	—
Johnson Oil & Refg. Co.	25	—	—	—	25	—	—	—	—	—	—	—	—
Standard Oil Co.	117	—	—	—	—	—	—	—	25	50	—	42	—
J. D. Streett & Co.	33	—	—	—	—	—	10	—	23	—	—	—	—
Theisen-Clemens Co	4	—	—	—	—	—	4	—	—	—	—	—	—
Wadhams Oil Co.	53	—	5	5	43	—	—	—	—	—	—	—	—
Total Refined Gaso.	327	—	5	5	77	10	19	3	93	71	—	44	—
Natl. Gas & Benzol	347	32	29	25	38	30	40	19	31	31	22	26	24
1934													
American Pet. Co.	1	—	—	—	—	—	—	—	—	1	—	—	—
C. M. St. P. & P. Ry. Co.	1	—	—	—	—	—	—	—	—	—	—	1	—
Taylor Refining Co.	25	—	—	—	—	25	—	—	—	—	—	—	—
Wadhams Oil Co.	1	—	—	—	1	—	—	—	—	—	—	—	—
Wells Pet. Co.	½	—	—	—	—	—	—	—	—	—	—	½	—
Total Refined Gaso.	28½	—	—	—	1	25	—	—	—	1	—	1½	—
Natl. Gas & Benzol	852½	16	60	50	83	60	37	53½	51	116	125	101	100

1935

Acme Pet. Co	10	—	—	—	—	10	—	—	—	—	—	—	—
Atlas Pet. Co	16	—	—	—	—	5	10	—	—	1	—	—	—
Black Gold Refg. Co	3	—	—	—	—	—	—	3	—	—	—	—	—
Carson Pet. Co	1	—	—	—	—	1	—	—	—	—	—	—	—
Henry H. Cross Co	5	—	—	—	—	—	—	5	—	—	—	—	—
Deep Rock Oil Corp	104	—	—	14	28	26	16	20	—	—	—	—	—
Eason Oil Co	10	—	—	—	—	—	—	—	—	—	—	5	5
East Texas Ref. Co	5	—	—	—	—	—	—	5	—	—	—	—	—
Globe Oil & Refg.-Kans	3	—	—	—	—	—	—	—	—	—	—	—	3
Globe Oil & Refg.-Okla	15	—	—	—	—	—	—	—	—	—	—	14	1
Industrial Pet. Co	7	—	—	—	—	—	7	—	—	—	—	—	—
Dale W. Moore Oil Co	5	—	—	—	—	—	—	—	—	5	—	—	—
Simms Oil Co	10	—	—	—	—	10	—	—	—	—	—	—	—
Oils Incorporated	5	—	—	—	—	5	—	—	—	—	—	—	—
Olney Oil & Refg. Co	10	—	—	—	—	—	—	—	—	—	—	—	10
Geo. C. Peterson Co	1	—	—	1	—	—	—	—	—	—	—	—	—
Premier Oil & Refg. Co	10	—	—	—	—	—	—	—	—	—	—	10	—
Standard Oil Co	6	—	—	—	—	—	—	—	—	—	—	6	—
Sun Company	20	—	—	—	—	—	—	—	—	—	—	10	10
Transamerican Pet. Co	19	—	—	1	—	10	—	—	—	—	—	2	6
T. R. Vaughn	22	—	—	5	—	6	—	—	—	11	—	—	—
Vickers Pet. Co	10	—	—	—	—	10	—	—	—	—	—	—	—
Total Refined Gaso	297	—	—	21	28	83	33	33	—	17	—	47	35
Natural Gas & Benzol	1416	74	123	84	104	117	124	146	118	113	158	122	133

Purchased From	Total Cars	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
1936													
Acme Petr. Co	10	—	—	—	—	—	—	—	10	—	—	—	—
Atlas Petr. Co	1	—	1	—	—	—	—	—	—	—	—	—	—
Carson Pet. Co	30	—	—	—	—	—	—	—	—	30	—	—	—
Globe Oil & Refg.-Kans	8	—	1	—	—	—	—	—	7	—	—	—	—
Olney Oil & Refg. Co	135	10	10	10	15	15	15	30	15	—	15	—	—
Petr. Exchange Corp	5	—	—	—	—	—	—	—	—	—	—	—	—
Russell Refining Co	5	—	5	—	—	—	—	—	—	—	—	—	—
Transamerican Pet. Co	18	1	—	—	—	—	—	—	8	9	—	—	—
Wiloil Corp	111	—	—	—	—	—	—	—	104	7	—	—	—
Total Refined Gaso	323	11	17	15	15	15	15	30	144	46	15	—	—
Natl. Gas & Benzol	1757	73	46	112	130	179	141	203	132	151	254	219	117
1937													
Allied Oil Co	51	—	—	—	2	—	—	49	—				
Carson Pet. Co	8	—	—	—	—	—	—	8	—				
Johnson Oil & Refg. Co	50	—	—	—	—	—	—	50	—				
Olney Oil & Refg. Co	50	—	—	15	—	—	15	20	—				
Petr. Exchange Corp	50	—	—	—	—	—	—	50	—				
Shell Petr. Corp	35	18	—	—	17	—	—	—	—				
Transamerican Pet	34	—	—	—	2	—	—	28	4				
Waggoner Refg. Co	30	—	—	—	—	—	—	30	—				
Williams Pet. Co	1	—	—	—	—	—	—	1	—				
Wiloil Corp	110	—	31	31	48	—	—	—	—				
Total Refined Gaso	419	18	31	46	69	—	15	236	4				
Natl. Gas & Benzol	1989	123	50	170	315	450	290	356	235				

6052 **DEFENSE EXHIBIT NO. 1002.**

A summary by years of the combined purchases of the three Globe companies from January 1933 through August 1937, in gallons, from independent refiners named in the indictment, and from other refiners and brokers.

Year	Independent Refiners Named in Indictment	Other Refiners and Brokers
	(Gallons)	
1933	358,763	4,325,607
1934	None	232,776
1935	2,886,500	2,229,278
1936	1,086,504	1,502,767
1937 (8 mo.)	1,523,665	2,792,719

6053 **DEFENSE EXHIBIT NO. 1003.**

6054 **THE GLOBE OIL & REFINING CO.**

Crude Run to Stills—Barrels
1-1-31 to 12-13-36

	Blackwell	Lemont	McPherson	Total
1931				
Jan	291,287	152,791		254,078
Feb	196,314	94,115		290,429
Mar	217,423	162,052		379,475
Apr	203,060	170,230		373,290
May	203,311	165,137		368,448
June	195,029	189,294		384,323
July	203,922	172,729		376,651
Aug	224,319	195,992		420,311
Sept	199,604	146,040		345,644
Oct	214,460	153,654		368,114
Nov	209,941	188,165		398,106
Dec	202,550	138,035		340,585
	2,471,220	1,928,234		4,399,454
1932				
Jan	215,944	163,106		379,050
Feb	192,493	165,450		357,943
Mar	205,067	80,037		285,104
Apr	209,529	188,917		398,446
May	236,222	165,236		401,458
June	214,436	172,002		386,438
July	196,838	188,166		385,004
Aug	204,582	188,316		392,898
Sept	201,443	170,938		372,381
Oct	203,027	186,912		389,939
Nov	161,534	195,906		357,440
Dec	157,790	186,657		344,447
	2,398,905	2,051,643		4,450,548
1933				
Jan	174,075	196,229		370,304
Feb	181,520	172,997		354,517
Mar	199,709	227,186	101,370	528,265
Apr	196,376	191,159	193,415	580,950
May	181,008	183,394	212,495	576,897
June	173,483	138,229	257,556	569,268
July	210,750	225,450	241,082	677,282
Aug	214,942	253,781	234,583	703,306
Sept	207,228	234,893	242,896	685,017
Oct	201,632	287,425	248,159	737,216
Nov	136,159	247,672	218,651	602,482
Dec	122,242	223,744	202,574	548,560
	2,199,124	2,582,159	2,152,781	6,934,064

6055

	Blackwell	Lemont	McPherson	Total
1934				
Jan.	183,598	229,365	234,713	647,676
Feb.	174,903	244,410	136,115	555,428
Mar.	127,643	220,140	260,493	608,276
Apr.	170,506	292,568	224,278	687,354
May	142,270	261,145	282,458	685,873
June	93,877	271,860	251,583	617,320
July	184,517	284,970	249,367	718,854
Aug.	74,906	284,992	256,335	616,233
Sept.	14,751	257,749	226,334	498,834
Oct.	111,003	293,580	198,071	602,654
Nov.	65,119	251,889	264,145	581,153
		243,566	270,662	514,228
	1,343,095	3,136,234	2,854,554	7,333,883
1935				
Jan.		267,812	218,077	485,889
Feb.		210,907	226,929	437,836
Mar.		290,367	313,514	603,881
Apr.		277,113	301,702	578,815
May	112,579	331,388	311,662	755,629
June	190,686	286,893	298,545	776,124
July	159,072	326,260	347,180	832,512
Aug.	153,603	308,761	315,043	777,407
Sept.	129,911	320,776	292,945	743,632
Oct.	124,425	340,361	302,086	766,872
Nov.	121,597	267,952	202,180	591,729
Dec.	135,005	326,960	243,990	705,955
	1,126,878	3,555,550	3,373,853	8,056,281
1936				
Jan.	126,911	296,085	321,147	744,143
Feb.		267,664	242,341	510,005
Mar.		257,558	234,650	492,208
Apr.	142,303	366,088	273,568	781,959
May	156,812	395,497	368,686	920,995
June	141,724	330,460	286,026	758,210
July	152,890	405,423	266,745	825,058
Aug.	128,093	363,937	276,559	768,589
Sept.	141,708	428,789	317,240	887,737
Oct.	6,581	479,131	343,858	829,570
Nov.		480,931	340,239	821,170
Dec.		414,264	233,384	647,648
	997,022	4,485,827	3,504,443	8,987,292
1937				
Jan.	123,933	471,998	318,473	914,404
Feb.	125,012	454,170	280,073	859,255
Mar.	149,936	448,756	329,323	928,015
Apr.	154,213	489,612	301,773	945,598
May	193,869	459,739	339,295	992,903
June	176,147	476,634	357,095	1,009,876
July	162,962	502,105	390,484	1,055,551
Aug.	177,917	443,209	332,359	953,485
	1,263,989	3,746,223	2,648,875	7,659,087

6056 **DEFENSE EXHIBIT NO. 1004.**

6057 **THE GLOBE OIL & REFINING COMPANY—OKLAHOMA**

Flat Price Purchases From Independent Refiners

(All prices f. o. b. Group 3, unless otherwise indicated)

(Dates are dates of purchase)

1935

Mid-Continent Field

Date	Grade	Seller	Price	Relation to Journal	No. Cars
*Feb. 2	Under 62	Cushing	.035 FOB Blackwell	Slightly above average, CJC	3
*Feb. 10	" "	"	.035 FOB Blackwell	High, CJC	5
*Feb. 20	" "	"	.035 FOB Blackwell	High, CJC	5
Mar. 4	70 Oct.	Omar	.0425	1/8 below low, CJC	30
*Mar. 8	Under 62	Cushing	.04 FOB Blackwell	1/4 above high, CJC	5
Mar. 13	70 Oct.	Omar	.045	1/8 below low, CJC	20
Mar. 19	70 oct.	Omar	.04625	1/8 below low, CJC	15
Mar. 27	70 oct.	Omar	.04625	1/8 below low, CJC	25
Apr. 2	70 oct.	Wilcox	.04875	Low, CJC	15
Apr. 9	70 oct.	Omar	.04875	1/8 below low, CJC	25
*Apr. 10	Under 62	Cushing	.045 FOB Blackwell	High, CJC	5
Apr. 19	Under 62	Eason	.04375	Low, CJC	15
Apr. 19	70 oct.	Omar	.05	1/8 below low, CJC	25
*Apr. 20	Under 62	Cushing	.04625 FOB Blackwell	High, CJC	5
Apr. 24	70 oct.	Omar	.05125	1/8 below low, CJC	25
Apr. 29	70 oct.	Omar	.05125	1/8 below low, CJC	25
Apr. 29	Under 62	Eason	.045	Low, CJC	10
May 13	Under 62	Omar	.045	1/8 below low, CJC	1
May 23	70 oct.	Omar	.055	High, CJC	5
May 29	Under 62	Omar	.04625	Low, CJC	10
					274 cars
		East Texas Field			
Aug. 9	Under 62	East Texas	.04625	1/8 below low, CJC	10
Aug. 15	Under 62	Marimac	.04625	1/8 below low, CJC	5
					15 cars
*For local delivery				Total	289 cars

Summary

Omitting 28 cars purchased from Cushing for local delivery,

Total purchased.....261 cars

Above low	5 cars
At low	50 "
Below low	206

1936

No purchases in either Mid-Continent or East Texas fields.

THE GLOBE OIL & REFINING COMPANY—ILLINOIS

Flat Price Purchases From Independent Refiners

(All prices f. o. b. Group 3, unless otherwise indicated)
(Dates are dates of purchase)

1935

Mid-Continent Field

Date	Grade	Seller	Price	Relation to Journal	No. Cars
May 24	Under 62	Simms	.04625	Low, CJC	10
July 10	70 oct.	Cross	.055	1/8 below low, CJC	1
Dec. 19	Under 62	Eason	.0475	Low, CJC	5
					16 cars

NOTE:—Purchase of 3 cars of 64–66 octane, July 20, 1935, omitted because of unclassified octane rating.

East Texas Field

July 31	Under 62	East Texas	.04625	1/8 below low, CJC	5
Nov. 8	Under 62	Premier	.04625	1/8 below low, CJC	10
					15 cars
				Total.....	31 cars

Summary

Total Purchased.....	31 cars
Above low.....	0 cars
At low.....	15 "
below low.....	16 "

1936

Mid-Continent Field

No purchases

East Texas Field

No purchases

6059 **DEFENSE EXHIBIT NO. 1008.**

THE GLOBE OIL AND REFINING COMPANIES.
OKLAHOMA, KANSAS AND ILLINOIS.

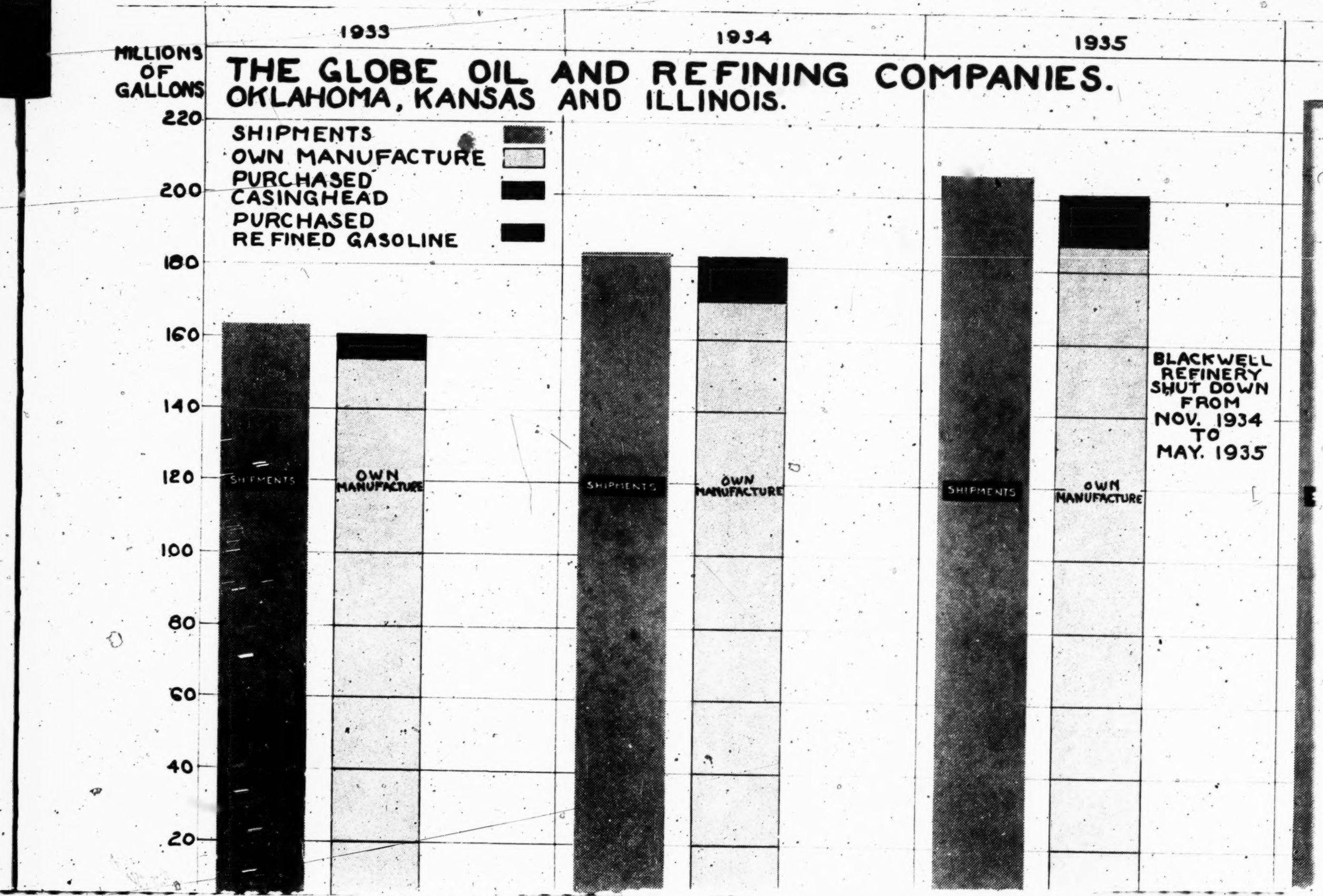


EXHIBIT NO. 1008 3775

MPANIES.

1935

1936

6 MONTHS OF 1937

MILLIONS OF GALLONS

220

200

180

160

140

120

100

80

60

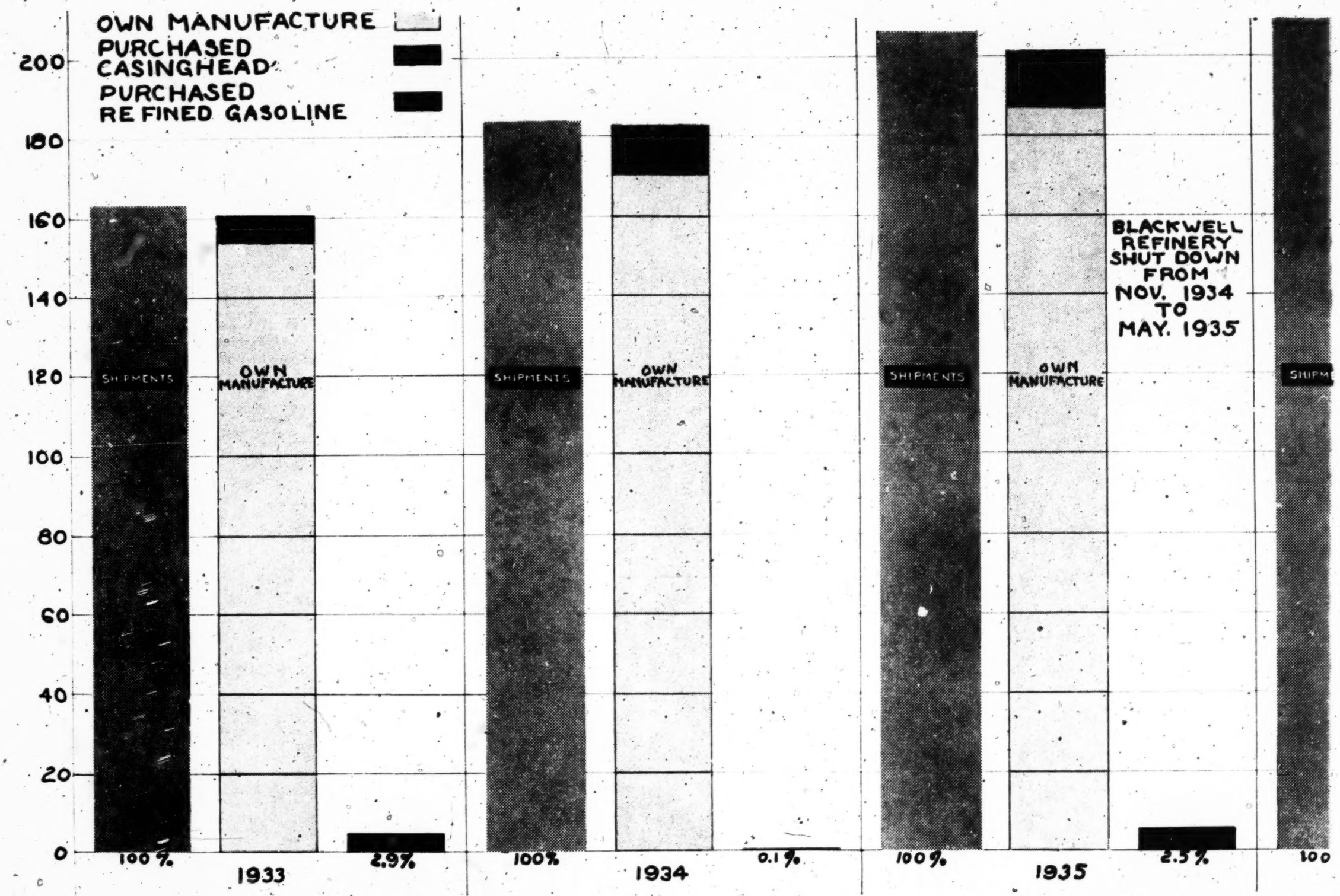
40

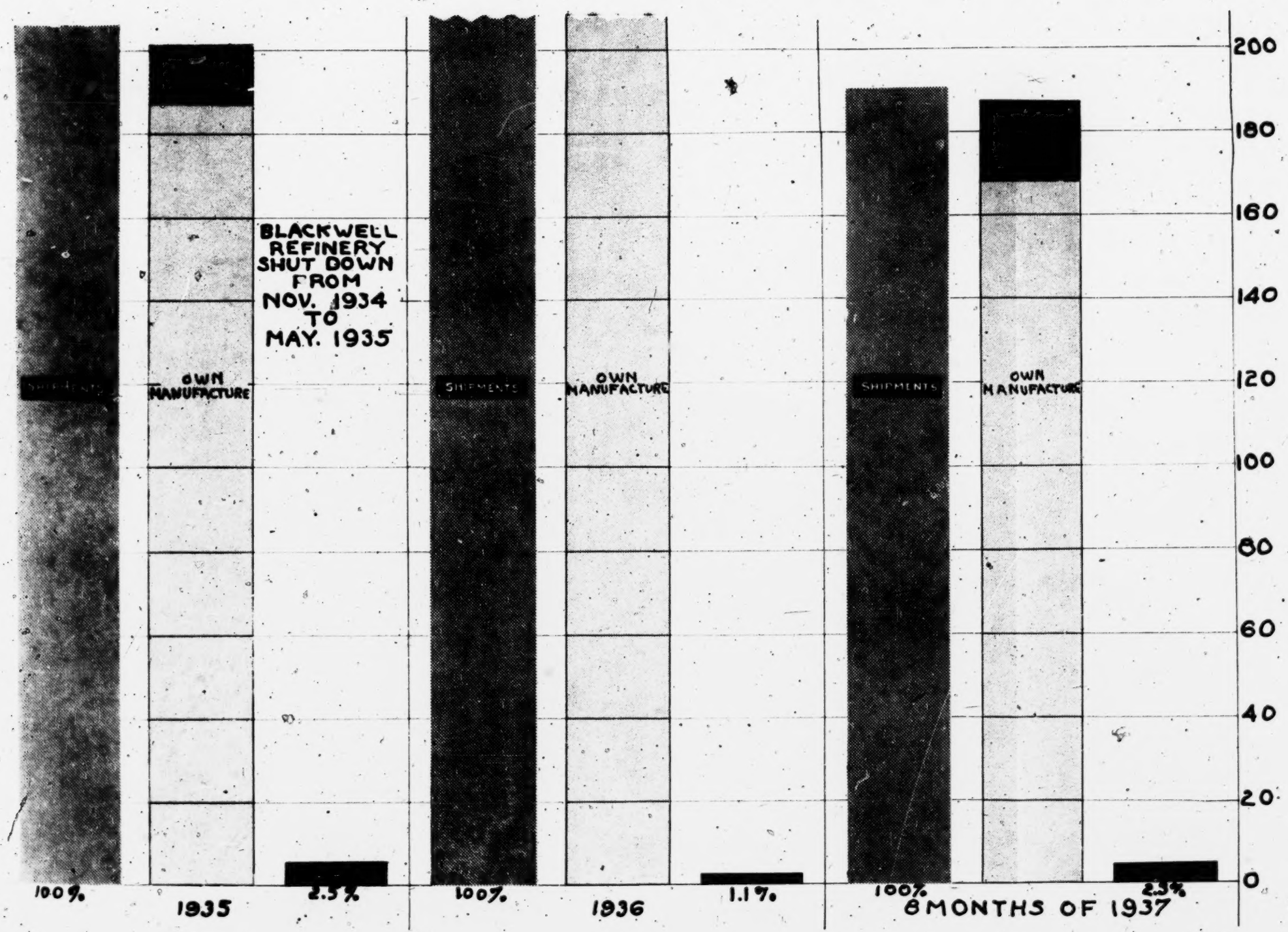
20

SHIPMENTS

OWN MANUFACTURE

BLACKWELL REFINERY SHUT DOWN FROM NOV. 1934 TO MAY. 1935


OWN MANUFACTURE
PURCHASED CASINGHEAD
PURCHASED REFINED GASOLINE
200
180
160
140
120
100
80
60
40
20
0
SHIPMENTS
OWN MANUFACTURE
100%
2.9%
1933
SHIPMENTS
OWN MANUFACTURE
100%
0.1%
1934
SHIPMENTS
OWN MANUFACTURE
100%
2.5%
1935
BLACKWELL REFINERY SHUT DOWN FROM NOV. 1934 TO MAY. 1935
100


BLACKWELL REFINERY SHUT DOWN FROM NOV. 1934 TO MAY. 1935
SHIPMENTS
OWN MANUFACTURE
100%
2.5%
1935
100%
1.1%
1936
100%
2.3%
8 MONTHS OF 1937
200
180
160
140
120
100
80
60
40
20
0

6061. **DEFENSE EXHIBIT NO. 1009.**

6062

Comparison of Pure Oil Company "Flat Price" Gasoline Purchases From Eason Oil Company with Eason Oil Companies' Sales—For Years 1935 & 1936*.

	Pure Oil Co. Purchases—(Gallons)			Eason's Sales Gallons	% Pure's Purch. of Eason's Sales
	3rd Grade	Regular Grade	Totals		
1935					
Jan.	—	—	—	1,842,050	—
Feb.	—	—	—	1,666,277	—
March	—	—	—	2,144,600	—
April	—	—	—	2,006,734	—
May	5,333	—	5,333	2,195,539	.24
June	5,333	4,000	9,333	2,804,838	.33
July	—	—	—	3,109,500	—
August	—	—	—	2,401,914	—
Sept.	—	—	—	2,218,964	—
Oct.	—	5,334	5,334	1,882,636	.28
Nov.	—	—	—	1,816,215	—
Dec.	—	—	—	1,777,088	—
Totals	10,666	9,334	20,000	25,866,355	.77
1936					
Jan.	—	—	—	2,260,258	—
Feb.	—	—	—	1,488,123	—
March	—	—	—	2,250,601	—
April	5,333	160,000	165,333	1,983,506	8.34
May	—	—	—	2,076,658	—
June	—	—	—	3,206,637	—
July	—	—	—	3,079,506	—
August	—	—	—	2,047,531	—
Sept.	—	—	—	2,492,217	—
Oct.	—	—	—	2,503,878	—
Nov.	—	—	—	1,906,001	—
Dec.	—	—	—	1,943,328	—
Totals	5,333	160,000	165,333	27,240,244	.61

*Pure's purchases calculated by converting tank cars to gallons on basis of 8,000 gallons per car.

6063

Comparison of Pure Oil Company "Flat Price" and "Market Date of Shipment" Purchases from Eason Oil Company with Eason Oil Co's. Sales—For the Years 1935 and 1936.*

	Pure Oil Co. Purchases—(Gallons)			Eason's Sales (Gallons)	% Pures Purch. of Eason's Sales
	Third Grade	Reg. Grade	Totals		
1935					
Jan.	—	—	—	1,842,050	—
Feb.	—	—	—	1,666,277	—
March	—	—	—	2,144,600	—
April	—	—	—	2,008,734	—
May	5,333	—	5,333	2,195,539	.24
June	5,333	4,000	9,333	2,804,838	.33
July	—	—	—	3,109,500	—
August	—	—	—	2,401,914	—
Sept.	—	—	—	2,218,964	—
Oct.	—	5,334	5,334	1,882,636	.28
Nov.	—	—	—	1,816,215	—
Dec.	—	—	—	1,777,088	—
Totals	10,666	9,334	20,000	25,866,355	.77
1936					
Jan.	—	—	—	2,260,258	—
Feb.	—	—	—	1,488,123	—
March	—	—	—	2,250,601	—
April	5,333	160,000	165,333	1,983,506	8.34
May	—	160,000	160,000	2,076,658	7.70
June	—	160,000	160,000	3,206,637	4.99
July	—	164,000	164,000	3,079,506	5.33
Aug.	—	200,000	200,000	2,047,531	9.77
Sept.	—	160,000	160,000	2,492,217	6.42
Oct.	—	170,666	170,666	2,503,878	6.82
Nov.	—	160,000	160,000	1,908,001	8.39
Dec.	—	29,333	29,333	1,943,328	1.51
Totals	5,333	1,363,999	1,369,332	27,240,244	5.03

*Pure's purchases calculated by converting tank cars to gallons on basis of 8,000 gallons per car.

6064 **DEFENSE EXHIBIT NO. 1010.**

6065

Comparison of Pure Oil Company "Flat Price" Gasoline Purchases From Omar Refining With Omar Refining Company's Sales—For Years 1935 and 1936*

1935	Pure Oil Co. Purchases (Gallons)			Omar Sales (Gallons)	% Pure's Total Purchases of Omar's Sales
	Third Grade	Regular Grade	Totals		
Jan.	(Omar not operating)				
Feb.				65,482	
Mar.				1,677,573	
Apr.				2,597,258	
May		40,000	40,000	1,784,818	2.24
June				2,874,730	
July				2,256,575	
Aug.		296,000	296,000	2,628,060	11.26
Sept.		104,000	104,000	2,467,262	4.21
Oct.		280,000	280,000	2,450,153	11.43
Nov.		280,000	280,000	2,361,678	11.86
Dec.		280,000	280,000	2,173,870	12.88
Totals	—	1,280,000	1,280,000	23,337,459	5.48
1936					
Jan.		288,000	288,000	1,989,161	14.48
Feb.		320,000	320,000	1,482,092	21.59
Mar.		240,000	240,000	2,476,652	9.69
Apr.		160,000	160,000	2,247,101	7.12
May				2,366,961	
June				3,142,713	
July				2,064,965	
Aug.				3,628,870	
Sept.	8,000		8,000	3,351,738	.24
Oct.	5,333	5,333	10,666	3,084,106	.35
Nov.				3,024,346	
Dec.				2,951,703	
Totals	13,333	1,013,333	1,026,666	31,810,408	3.23

*Pure's purchases calculated by converting tank cars to gallons on basis of 8,000 gallons per car.

6066

Comparison of Pure Oil Company "Flat Price" and "Market Date of Shipment" Purchases from Omar Refining Co. with Omar Refining Company's Sales—For Years 1935 and 1936*

	Pure Oil Co. Purchases (Gallons)			Omar Sales (Gallons)	% Pure's Total Purchases of Omar's Sales
1935	Third Grade	Regular Grade	Totals		
Jan.	(Omar not operating)				
Feb.				65,482	
Mar.				1,677,573	
Apr.				2,597,258	
May		40,000	40,000	1,784,818	2.24
June		200,000	200,000	2,874,730	6.96
July		—	—	2,256,575	
Aug.		296,000	296,000	2,628,060	11.26
Sept.		104,000	104,000	2,467,262	4.21
Oct.		280,000	280,000	2,450,153	11.43
Nov.		280,000	280,000	2,361,678	11.86
Dec.		280,000	280,000	2,173,870	12.88
Totals		1,480,000	1,480,000	23,337,459	6.34
1936					
Jan.		288,000	288,000	1,989,161	14.48
Feb.		320,000	320,000	1,482,092	21.59
Mar.		240,000	240,000	2,476,652	9.69
Apr.		160,000	160,000	2,247,101	7.12
May		160,000	160,000	2,366,961	6.76
June		160,000	160,000	3,142,713	5.09
July		160,000	160,000	2,064,965	7.75
Aug.		—	—	3,628,870	
Sept.	8,000	80,000	88,000	3,351,738	2.63
Oct.	5,333	48,000	53,333	3,084,106	1.73
Nov.		45,333	45,333	3,024,346	1.50
Dec.		24,000	24,000	2,951,703	.81
Totals	13,333	1,685,333	1,698,666	31,810,408	5.34

*Pure's purchases calculated by converting tank cars to gallons on basis of 8,000 gallons per car.

6067 **DEFENSE EXHIBIT NO. 1011.**

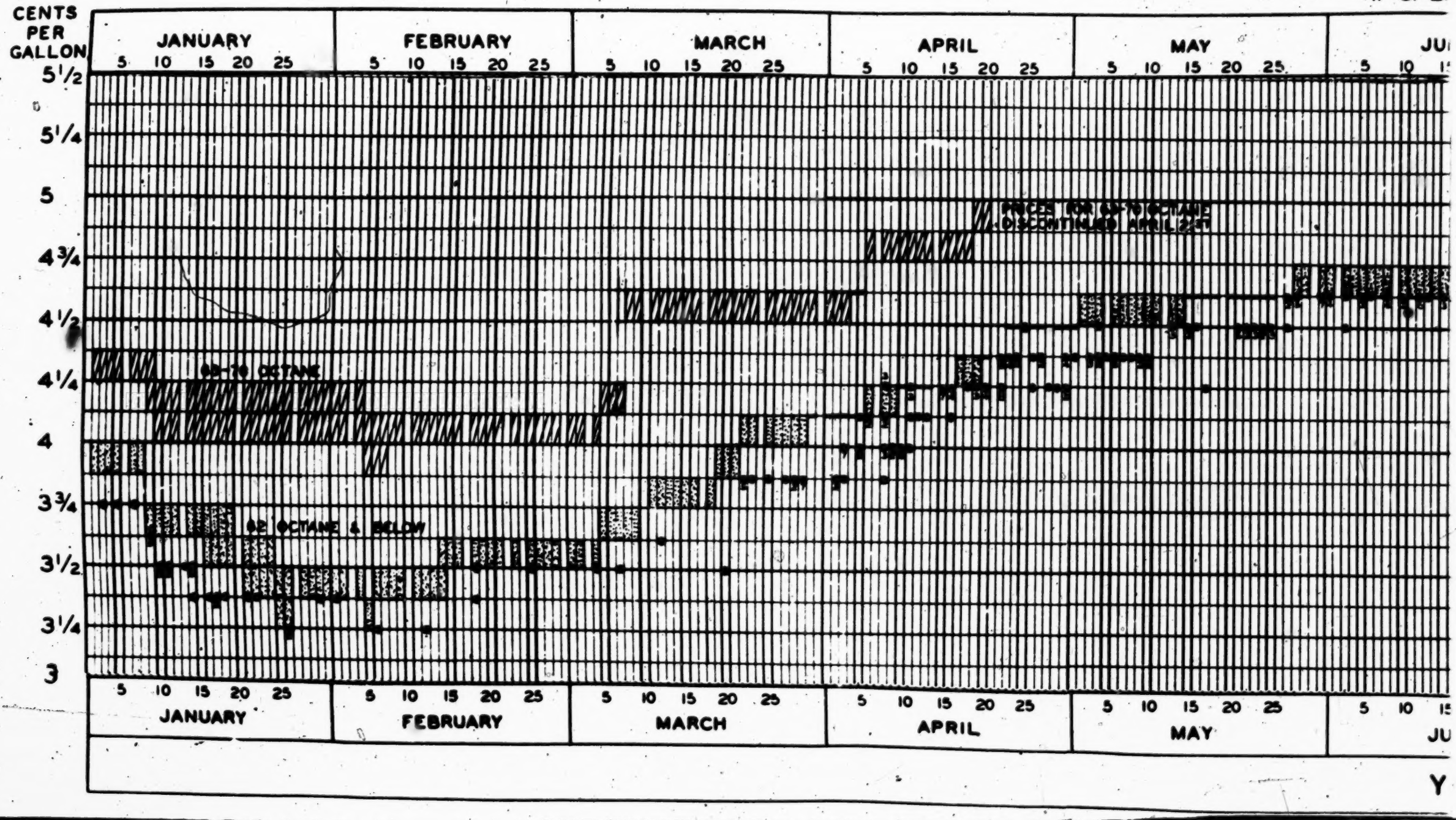
PURCHASES E

FROM IN

ON A F. O. B. E

PL

F. O. B.



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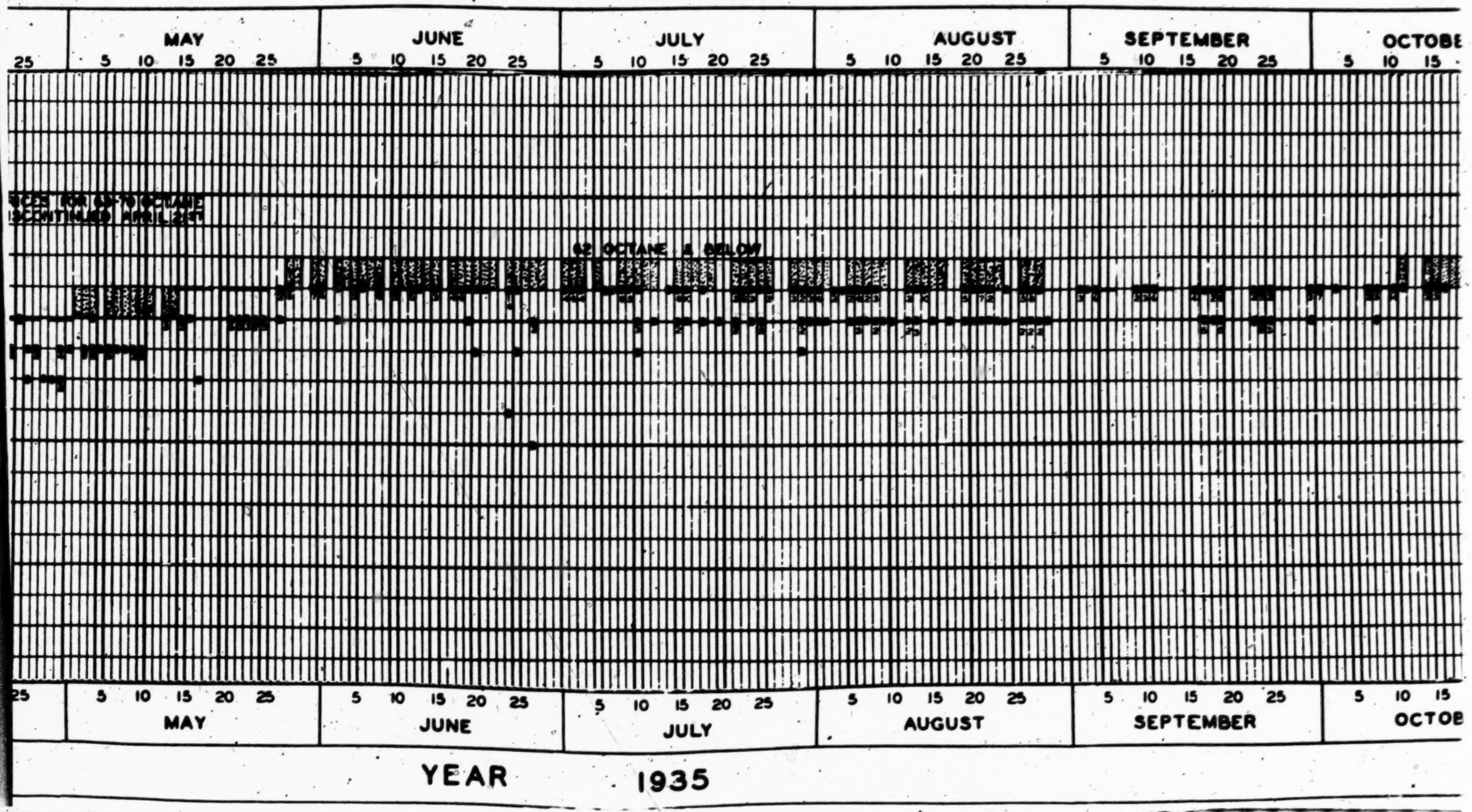
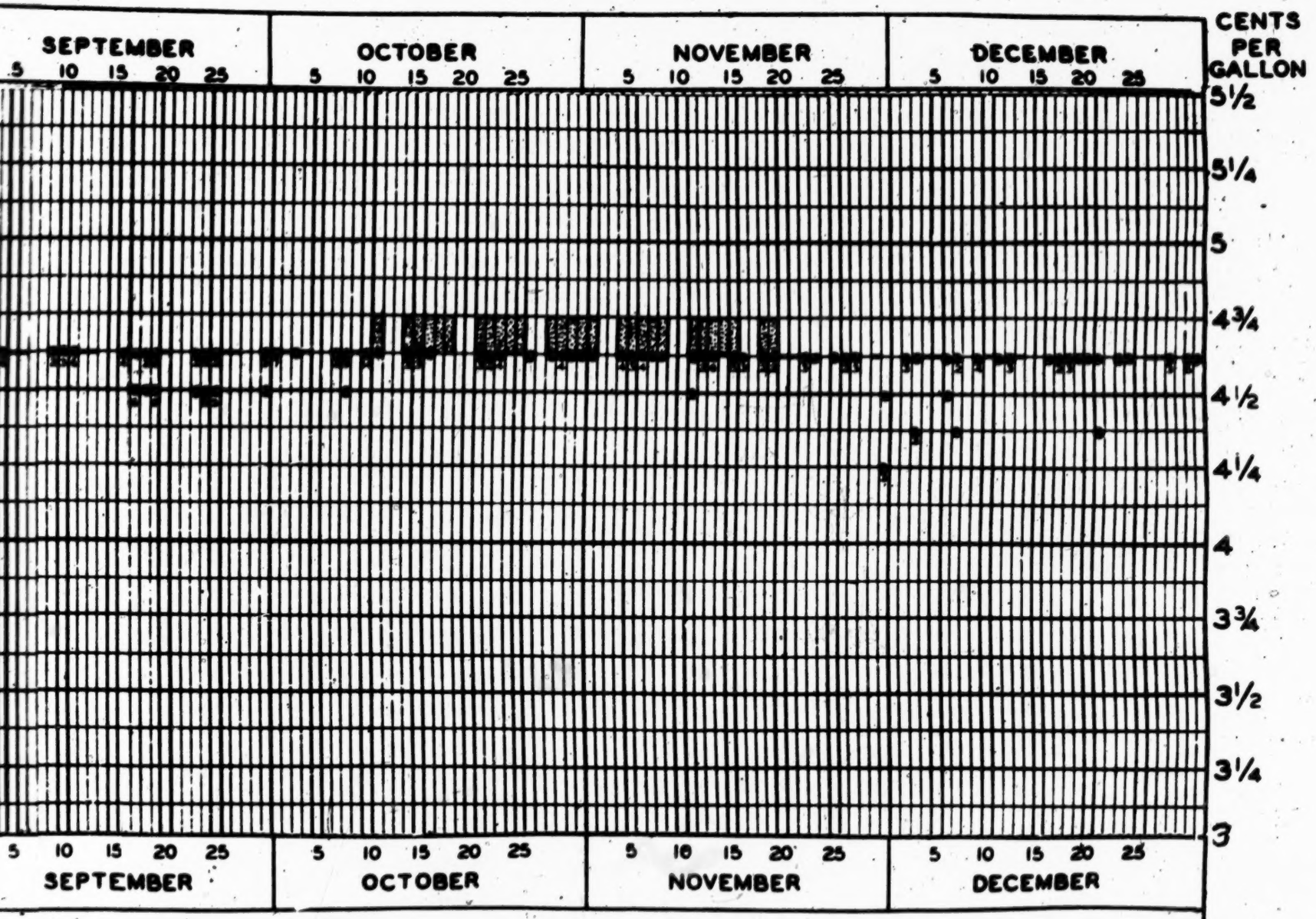
PURCHASES BY DEFENDANT COMPANIES
FROM INDEPENDENT REFINERS
ON A F. O. B. EAST TEXAS REFINERY BASIS
COMPARED WITH
PLATT'S OILGRAM
F. O. B. EAST TEXAS REFINERIES



YEAR 1935

EXHIBIT NO. 1011



6069 **DEFENSE EXHIBIT NO. 1012.**

6070 **Stipulation**

It is hereby stipulated that Roy W. Dalby, if called as a witness in the above entitled action would testify that he is at the present time, and since April, 1933, has been employed as a Tax Supervisor in the Motor Fuel Tax Division of the Office of the Comptroller of the Public Accounts of the State of Texas. As such Tax Supervisor, he has had charge of the keeping of, and is familiar with, the records of said Motor Fuel Tax Division relative to the reports made to said Comptroller of interstate shipments of motor fuel by tank car from points in the State of Texas. Since March 21, 1933, the laws of the State of Texas have required railroads shipping motor fuel from points within the State to file monthly reports with said Motor Fuel Tax Division, showing, among other things, as to all such shipments the name of the consignor, the name and address of the original consignee, car number, date of shipment, quantity and product shipped. Mr. Dalby would testify that from such records he has prepared a tabulation, annexed hereto as Exhibit A, setting forth
6071 the shipments of gasoline from time to time during the year 1934 consigned to Acme Petroleum Company by the respective consignors in East Texas named in said Exhibit A.

Mr. Dalby would further testify that said Exhibit A does not purport to show all gasoline purchased in East Texas during 1934 by Acme Petroleum Company, but only such gasoline as appears from the aforesaid records to have been originally consigned to Acme Petroleum Company, as stated above.

6072

EXHIBIT A

Shipper	Date Shipped	Destination	No. Cars	Total for 1934
Acme Oils, Inc	May 25	(4)Chicago		
		(1)St. Louis	5	
Acme Oils, Inc	July 12	Detroit	2	
Acme Oils, Inc	July 16	Chicago	3	
Acme Oils, Inc	July 17	Chicago	2	
Acme Oils, Inc	July 18	Chicago	1	13
Arrow Refg. & Prod. Co.	March 3	Riverdale	2	2
Bigelow, C. H	May 19	Chicago	1	
Bigelow, C. H	May 20	Kinmundy, Ill	1	
Bigelow, C. H	May 21	Chicago	1	
Bigelow, C. H	May 23	Chicago	2	
Bigelow, C. H	June 6	Chicago	1	
Bigelow, C. H	June 7	Chicago	3	9
Blackstone Refg. Co	Oct. 20	Chicago	3	
Blackstone Refg. Co	Oct. 23	Chicago	5	8
Canyon Refg. Co	Jan. 30	Chicago	1	
Canyon Refg. Co	Apr. 20	Chicago	1	2
Century Refg. Co	May 12	(1)Chicago		
		(1)St. Louis	2	
Century Refg. Co	May 25	Chicago	1	
Century Refg. Co	May 26	St. Louis	1	
Century Refg. Co	May 30	Chicago	6	
Century Refg. Co	June 27	Riverdale	1	

6073

Century Refg. Co	June 28	Riverdale	1	
Century Refg. Co	June 29	Riverdale	1	
Century Refg. Co	July 7	Riverdale	1	
Century Refg. Co	July 9	Riverdale	1	
Century Refg. Co	Oct. 16	Kansas City	2	
Century Refg. Co	Oct. 17	Chicago	1	20
Condor Refg. Co	Sept. 3	Chicago	5	5
Danciger Oil & Refys	Oct. 15	Chicago	2	2
East Texas Refg. Co	July 26	Chicago	1	
East Texas Refg. Co	July 27	Galena, Ill	1	
East Texas Refg. Co	July 30	Chicago	1	3
Gilliland Refg. Co	Mar. 30	Chicago	3	
Gilliland Refg. Co	Mar. 31	Chicago	1	4
Keystone Refg. Co	Mar. 24	St. Louis	1	
Kilgore Refg. Co	Mar. 17	Colfax, Wis	1	
Kilgore Refg. Co	Apr. 10	Riverdale	2	
Kilgore Refg. Co	Apr. 14	Riverdale	1	
Kilgore Refg. Co	Apr. 23	Riverdale	4	
Kilgore Refg. Co	Apr. 25	Riverdale	1	9
Linsie Refg. Co	Mar. 1	Chicago	1	
Linsie Refg. Co	Mar. 5	Chicago	1	2
McMurrey Refg. Co	Oct. 14	Richland Center, Wis	1	1
Oil Refineries, Inc	Jan. 3	Chicago	1	
Oil Refineries, Inc	Feb. 26	Chicago	1	
Oil Refineries, Inc	Apr. 15	Riverdale	1	

6074

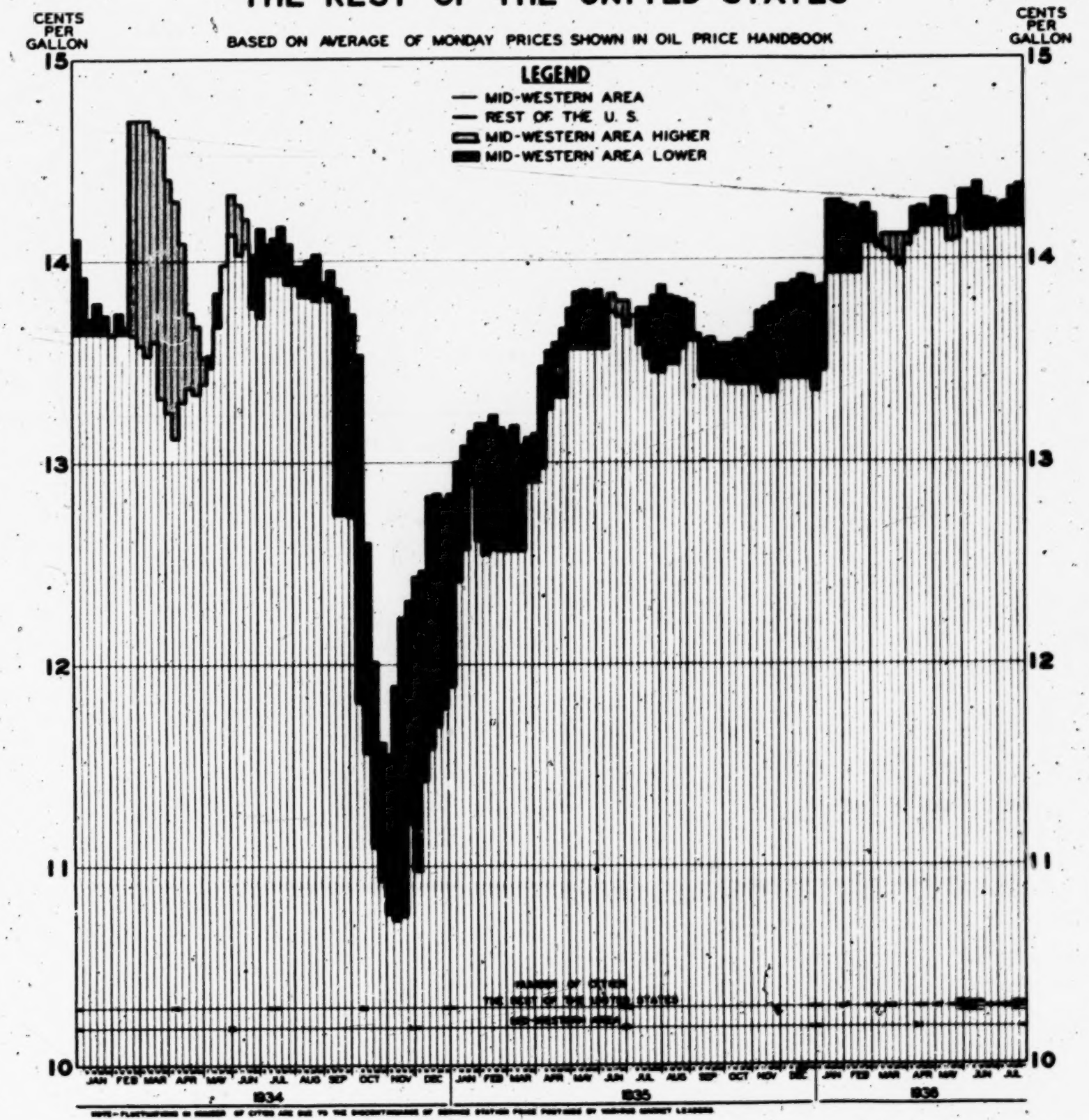
Shipper	Date Shipped	Destination	No. of Cars	Total for 1934
Oil Refineries, Inc.	Apr. 16	Riverdale	1	
Oil Refineries, Inc	Apr. 18	Riverdale	1	
Oil Refineries, Inc	Apr. 21	Riverdale	1	
Oil Refineries, Inc	July 17	Chicago	1	7
Overton Refg. Co	Apr. 1	Riverdale	2	
Overton Refg. Co	July 17	Detroit	2	4
Panama Refg. Co	May 7	Chicago	3	3
Petroleum Processing Co.	July 13	Detroit	2	
Petroleum Processing Co.	Aug. 6	Chicago	1	3
Reasonover, J	May 27	Riverdale	4	
Reasonover, J	May 28	Riverdale	2	6
Roco Refg. Co	Oct. 22	Kansas City	3	3
Solarene Refg. Co	Mar. 8	Chicago	2	
Solarene Refg. Co	June 28	Chicago	2	4
Southport Pet. Co	Mar. 13	Riverdale	2	
Southport Pet. Co	Mar. 16	Riverdale	3	
Southport Pet. Co	Mar. 17	Riverdale	3	
Southport Pet. Co	Mar. 18	Riverdale	1	
Southport Pet. Co	Mar. 20	Riverdale	1	
Southport Pet. Co	Sept. 13	Riverdale	1	
Southport Pet. Co	Nov. 4	Kansas City	4	
Southport Pet. Co	Nov. 5	Kansas City	1	
Southport Pet. Co	Nov. 28	Riverdale	2	18
6075				
Texas Oil Products Co	Mar. 6	Kansas City	2	2
Texas Refy	Mar. 17	Dodgeville, Wis	1	
Texas Refy	Apr. 14	Riverdale	1	
Texas Refy	Apr. 15	Riverdale	2	4
Trio Refg. Co	Apr. 20	Riverdale	2	2
Tyreco Refg. Co	Oct. 5	Kansas City	1	1
Union Refg. Co	Jan. 30	Chicago	1	
Union Refg. Co	Feb. 21	Terre Haute, Ind.	1	
Union Refg. Co	Feb. 23	Chicago	2	
Union Refg. Co	Mar. 3	Chicago	1	
Union Refg. Co	Mar. 12	Riverdale	1	6
Utah Refg. Co	Apr. 13	Riverdale	3	
Utah Refg. Co	Apr. 16	Riverdale	1	
Utah Refg. Co	May 26	(1)Chicago		
		(4)St. Louis	5	
Utah Refg. Co	May 27	Riverdale	1	
Utah Refg. Co	May 28	Riverdale	3	13
Not shown—Gladewater	Nov. 16	Elwood, Ind.	1	
Not shown—Gladewater	Nov. 19	Chicago	2	
Not shown—Gladewater	Nov. 27	Chicago	5	
Not shown—Gladewater	Dec. 31	Chicago	2	10

Total where Consignor is shown—1934	157
Total where Consignor is not shown—Gladewater	10
	167

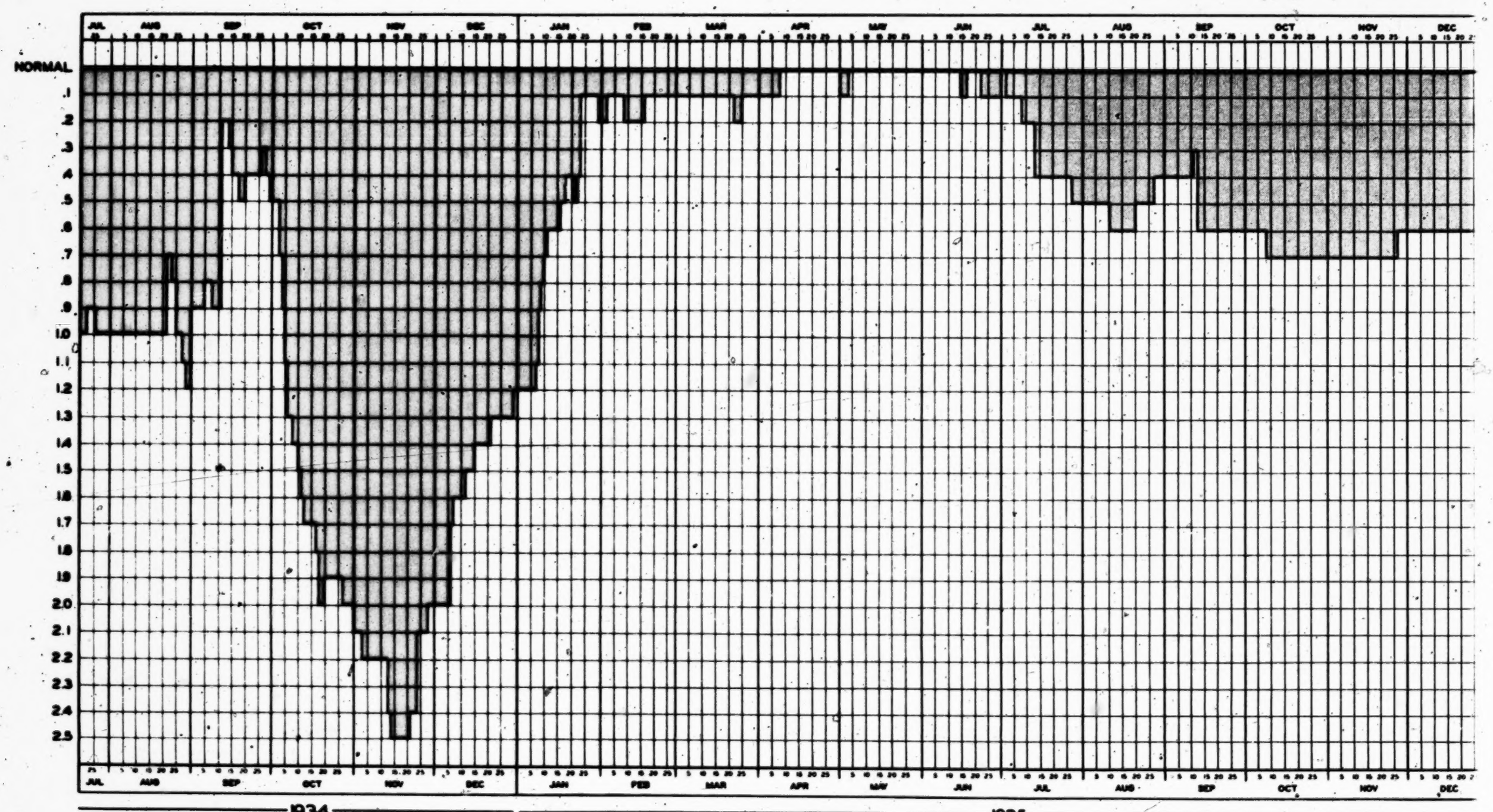
6076 **DEFENSE EXHIBIT NO. 1013.**

THE REST OF THE UNITED STATES

BASED ON AVERAGE OF MONDAY PRICES SHOWN IN OIL PRICE HANDBOOK

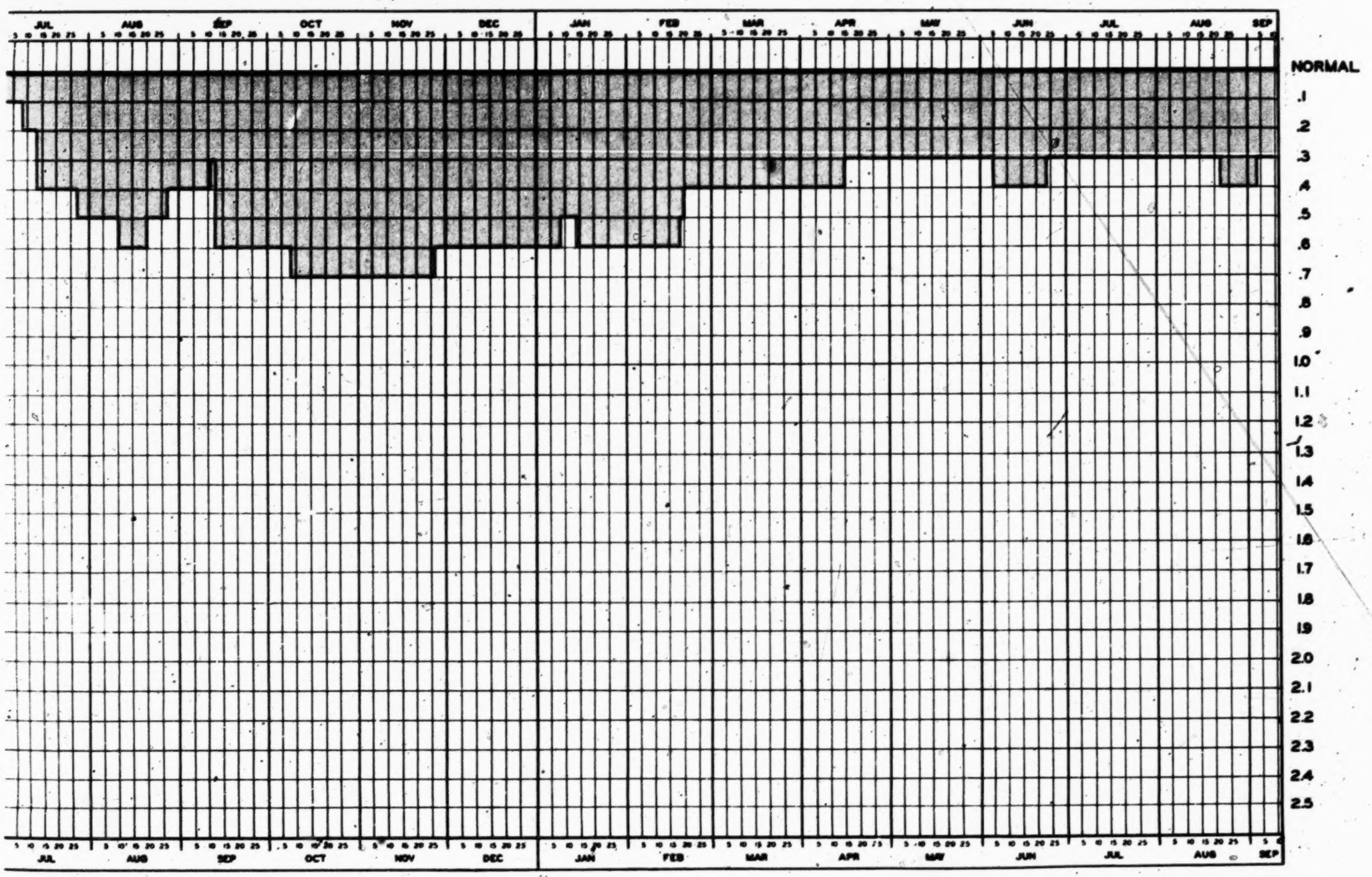


DAILY VARIATION FROM THE AVERAGE NORMAL POSTED SERVICE S
IN THE AVERAGE ACTUAL SERVICE STATION PRICE
FOR REGULAR GASOLINE-28 REPRESENTATIVE CITIES IN
COMPILED FROM OIL PRICE HANDBOOK



NORMAL POSTED SERVICE STATION PRICE (EX TAXES)
IAL SERVICE STATION PRICE (EX TAXES)
EPRESENTATIVE CITIES IN MID-WESTERN AREA
ROM OIL PRICE HANDBOOK

EXHIBIT NO. 1014 2795



6080 **DEFENSE EXHIBIT NO. 1015.**

6081 **Sinclair Refining Company's Purchases in the Mid-Continent Field, January 1, 1935-April 30, 1936**

1. Comparison of Purchases January 1, 1935-February 28, 1935 With Purchases January 1, 1936-February 29, 1936.

Period	Total Gallons	Average Gallons per Month
Jan. 1, 1935—Feb. 28, 1935	7,167,407	3,583,703
Jan. 1, 1936—Feb. 29, 1936	6,409,908	3,204,954

2. Purchases During Period March 1, 1935-April 30, 1936.

Source	Total Gallons	Percentage
Independent refiners named in par. 22 of indictment*	15,374,798	30.71
Other independent refiners**	26,590,446	53.11
All independent refiners	41,965,244	83.82
Major Companies***	8,100,144	16.18
Total	50,065,388	100.00

Average purchases per month—3,578,956.

* Purchases were made from all companies named except: Champlin, Dickey, Wilcox and Rock Island.

** 1. Anderson-Prichard Oil Corp., Cyril, Okla.
2. Atlas Oil Corp., Shreveport, La.
3. Black Gold Ref. Co., Oklahoma City, Okla.
4. L. O. Carter Co., Oklahoma City, Okla.
5. Cooperative Consumers Refg. Co., Megargle, Texas.
6. Coltex Ref. Co., Colorado, Texas.
7. Casco Oil Co., Wynnewood, Okla.
8. Cosden Oil Co., Big Springs, Texas.
9. Grotex Refining & Fuel Oil Co., Graham, Texas.
10. Lion Oil Refining Co., Pearson & Eldorado, Ark.
11. Lubbock Refining Co., Lubbock, Texas.
12. Major Petroleum Products Co., Oklahoma City, Okla.
13. Montray Refining Co., Hawley, Texas.
14. Octane Oil & Refining Co., Chautauqua, Texas.
15. Onyx Refining Co., Hawley & Lubbock, Texas.
16. Pasotex Petroleum Co., El Paso, Texas.
17. Root Refining Co., Eldorado, Ark.
18. Simms Oil Co., Dallas, Texas (Harrys, Tex.).
19. Southland Refining Co., Olney & Megargle, Texas.
20. Spartan Refining Co., Shreveport, La.
21. Standard Oil Co., of Texas, El Paso, Texas.
22. Texas Pacific Coal & Oil Co., Ft. Worth, Texas.
23. West Texas Refining Co., Pecos, Texas.
24. Wickett Refining Co., Wickett, Texas.
25. Wirt Franklin Petroleum Co., Ardmore, Okla.

*** 26. Continental Oil Co., Wichita Falls, Texas.
*** 27. Gulf Refining Co., Sweetwater, Texas.
*** 28. Louisiana Oil Ref. Corp. and Phillips Petroleum Co., Borger, Tex.

6082 **DEFENSE EXHIBIT NO. 1016.**

6083

OPERATING REFINERY CAPACITY IN THE UNITED STATES
(As of January 1, 1935 and January 1, 1936, according to Bureau of Mines information circulars)

Name of Company	January 1, 1935		January 1, 1936	
	Distillation	Cracking	Distillation	Cracking
Standard Oil Co. (Ind.)				
Whiting	93,000	67,400	100,000	88,500
Wood River, Ill	17,000	14,620	17,000	14,700
Neodesha, Kansas	7,500	8,570	7,500	5,120
Pan American, Destrelion	16,000	—	16,000	—
Stanolind, Superior, La	4,500	2,000	4,500	2,000
Pan American, Baltimore	8,000	—	8,000	—
Pan American, Texas City	25,000	25,000	25,000	25,000
Sugar Creek, Mo	16,500	16,000	18,000	13,500
Casper	17,600	9,050	16,600	8,300
	205,100	142,640	212,600	157,120
Socony Vacuum				
Wadhams	6,000	3,500	8,000	8,000
General (California)	77,000	6,000	75,000	6,000
E. St. Louis	5,000	3,400	5,000	4,600
Augusta, Kansas	15,000	15,000	15,000	20 00
Trenton, Mich	10,500	7,400	13,000	10,000
Paulsboro	20,000	8,300	20,000	3,600
E. Providence	5,000	4,000	5,000	4,000
Magnolia	94,500	62,250	97,000	44,750
Casper	5,000	2,500	5,000	2,500
New York	30,500	9,000	30,500	9,000
	268,500	121,350	273,500	112,500
Cities Service				
Empire, E. Chicago	25,000	15,000	25,000	15,000
La. Oil & Refg. Co	23,000	22,000	23,000	22,000
E. Braintree, Mass	20,000	4,500	20,000	4,500
Crew Levick	10,000	7,500	5,100	10,000
Empire O. & R	16,000	3,500	16,000	3,500
Crew Levick, Titus	3,000	—	3,000	—
	97,000	52,500	92,100	55,000
Shell				
E. Chicago	28,500	22,000	30,000	21,600
Shell (California)	75,300	40,050	66,400	70,900
Wood River, Ill	38,000	21,600	38,000	20,800
Arkansas City	20,000	9,000	20,000	9,700
Norco, La	21,000	10,000	21,000	13,000
Houston, Tex	42,000	21,000	56,000	40,000
	224,800	123,650	231,400	175,400
Sinclair				
E. Chicago	40,000	27,000	40,000	27,000
Rio Grande (Calif.)	10,000	3,500	10,000	3,000
Argentine, Kansas			11,000	9,000
Coffeyville, Kansas	23,000	18,000	12,000	9,000
Wellsville	10,000	6,000	10,000	6,000
Sands Springs	8,000	2,000	8,000	2,000
Marcus Hook	28,000	29,500	28,000	29,500
Texas	52,500	47,000	50,500	47,000
Parco, Wyo	8,000	4,000	8,000	4,000
	179,500	137,000	177,500	136,500

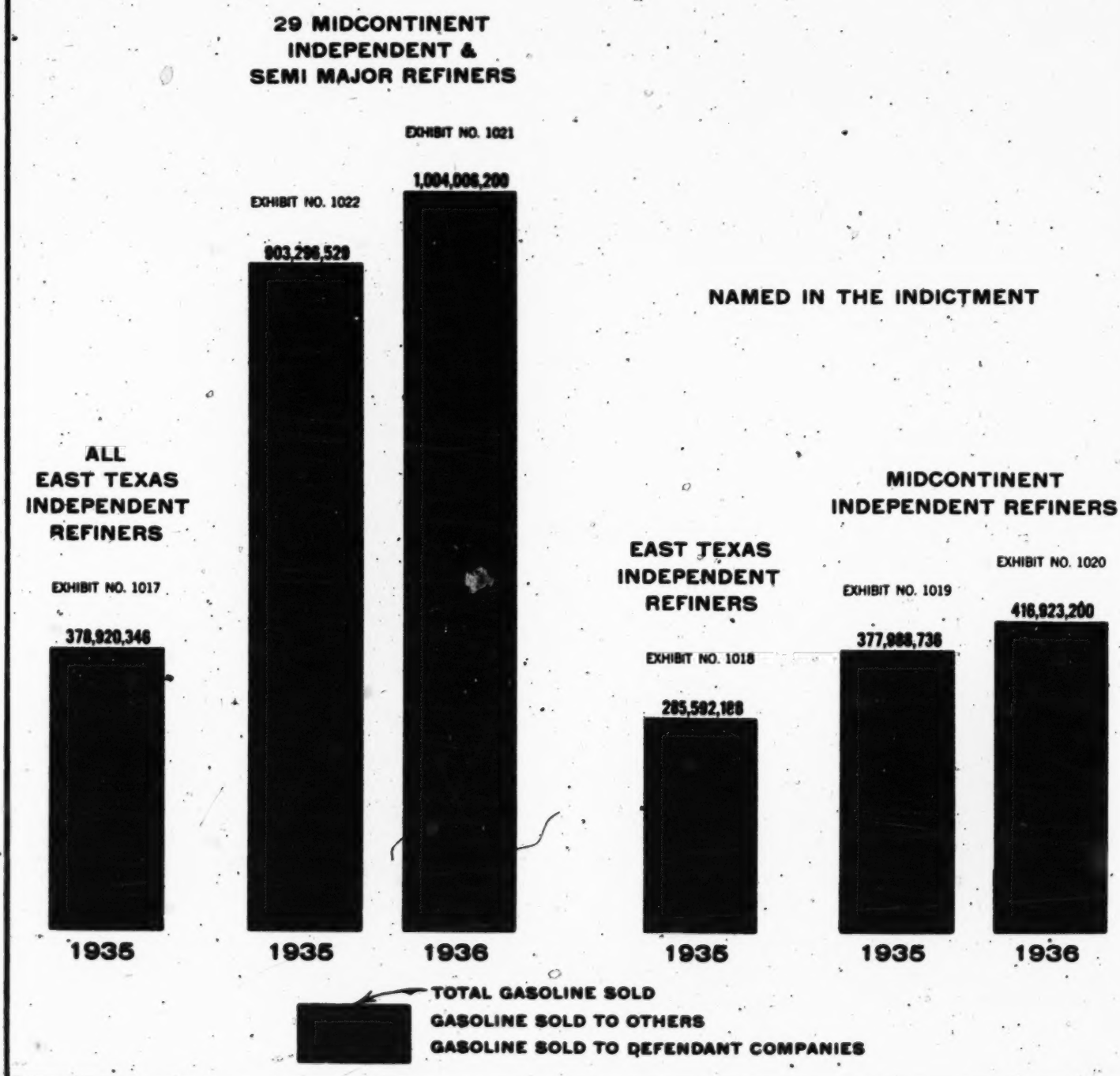
6084

Name of Company	January 1, 1935		January 1, 1936	
	Distillation	Cracking	Distillation	Cracking
Barnsdall				
Wichita	5,000	1,500	5,000	1,500
Oklahoma	16,000	7,500	16,000	7,500
	21,000	9,000	21,000	9,000
Globe				
McPherson	10,000	6,000	12,000	6,000
Blackwell	—	—	8,000	4,000
Lemont	12,000	6,000	12,000	6,000
	22,000	12,000	32,000	16,000
Skelly				
El Dorado	23,000	15,000	23,000	15,000
Pure				
Midland, Mich	3,000	—	3,000	—
Ohio	20,000	16,000	19,500	16,000
Muskogee	9,000	4,700	9,000	4,700
Marcus Hook	16,000	11,400	16,000	11,400
Nederland, Tex	27,000	15,450	27,000	15,450
Cabin Creek	3,500	750	2,000	750
	78,500	48,300	76,500	48,300
Continental				
Colorado	4,500	1,850	3,500	2,300
Baltimore	10,000	4,000	10,000	4,000
Lewiston, Mont	1,500	—	1,500	—
New Mexico	3,500	—	3,500	—
Ponca City	30,000	13,000	30,000	13,000
Wichita Falls, Tex	5,000	2,300	5,000	2,300
Glen Rod, Wyo	2,500	1,800	2,500	1,800
	57,000	22,950	56,000	23,400
Mid-Continent	40,000	20,000	40,000	20,000
Phillips				
Kansas City	9,000	8,000	9,000	8,000
Berger, Tex	50,000	48,000	50,000	48,000
Okmulgee	6,000	3,000	6,000	3,000
	65,000	59,000	65,000	59,000
Total of Defendant Companies	1,281,400	763,390	1,300,600	827,220
Total all others	3,614,749	1,897,778	3,749,835	1,994,868
Total operating capacity, entire United States	4,896,149	2,661,168	5,050,435	2,822,088
Percentages of total owned by defendants	35.45%	40.23%	34.68%	41.47%

6085 DEFENSE EXHIBIT NO. 1023 (1017-1022).

VOLUME OF EAST TEXAS & MIDCONTINENT GASOLINE SALES & PURCHASES

(SHOWN IN GALLONS)

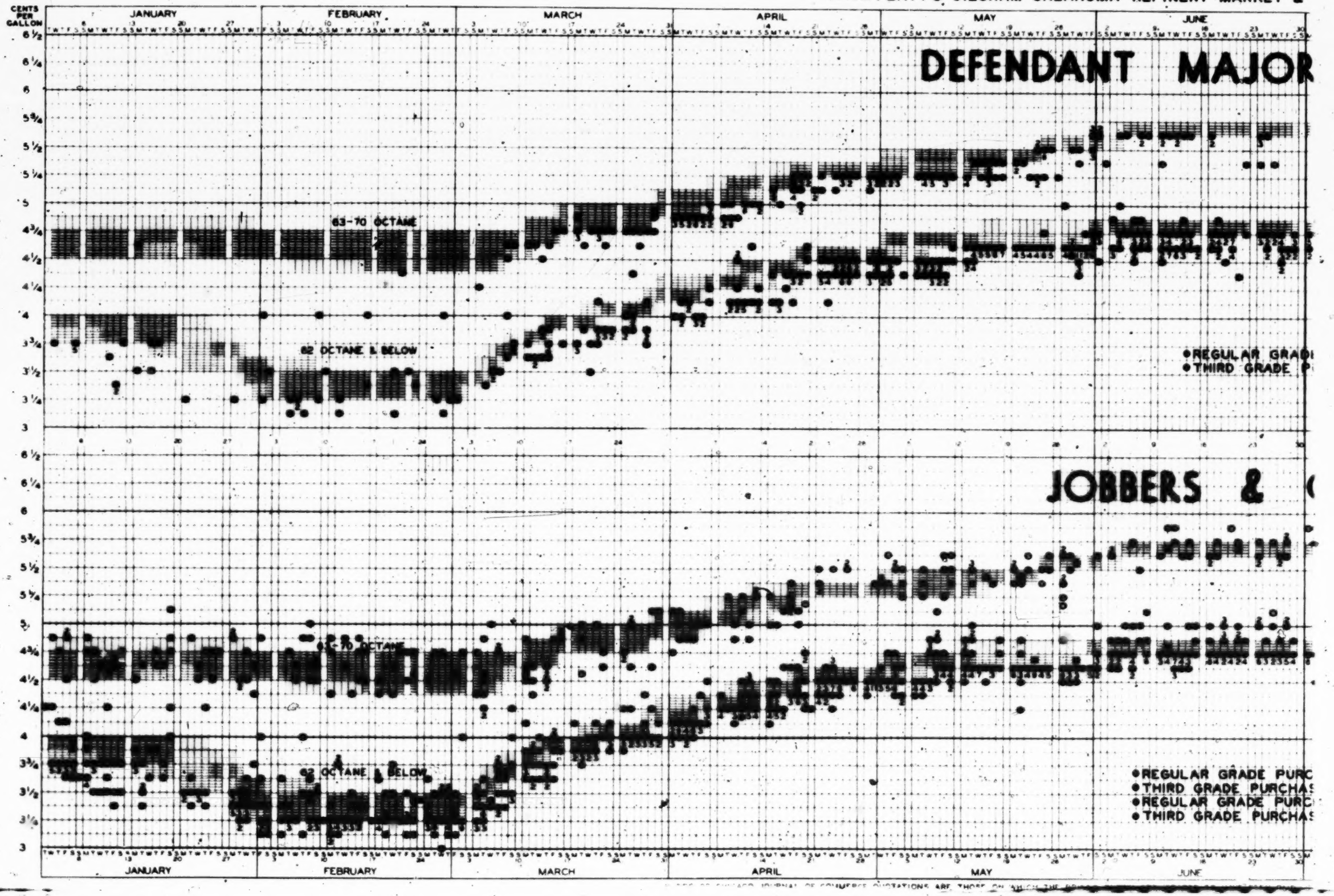


PURCHASES OF REGULAR & THIRD GRADE GASOLINE ON A FLAT PRICE

COMPARED W

COMPOSITE OF 1935 PR

PLATT'S OILGRAM OKLAHOMA REFINERY MARKET &



OF CHICAGO JOURNAL OF COMMERCE QUOTATIONS ARE THOSE ON WHICH THE

IIRD GRADE GASOLINE ON A FLAT PRICE OPEN MARKET BASIS F. O. B. GROUP 3 OKLAHOMA REFINERIES

COMPARED WITH

COMPOSITE OF 1935 PRICE QUOTATIONS

PLATT'S OILGRAM OKLAHOMA REFINERY MARKET & CHICAGO JOURNAL OF COMMERCE F. O. B. GROUP 3

MAY JUNE JULY AUGUST SEPTEMBER OCTOBER NOVEMBER

DEFENDANT MAJOR OIL COMPANIES'

63-70 OCTANE

62 OCTANE & BELOW

●REGULAR GRADE PURCHASES
●THIRD GRADE PURCHASES

JOBBERS & CONSUMERS''

63-70 OCTANE

62 OCTANE & BELOW

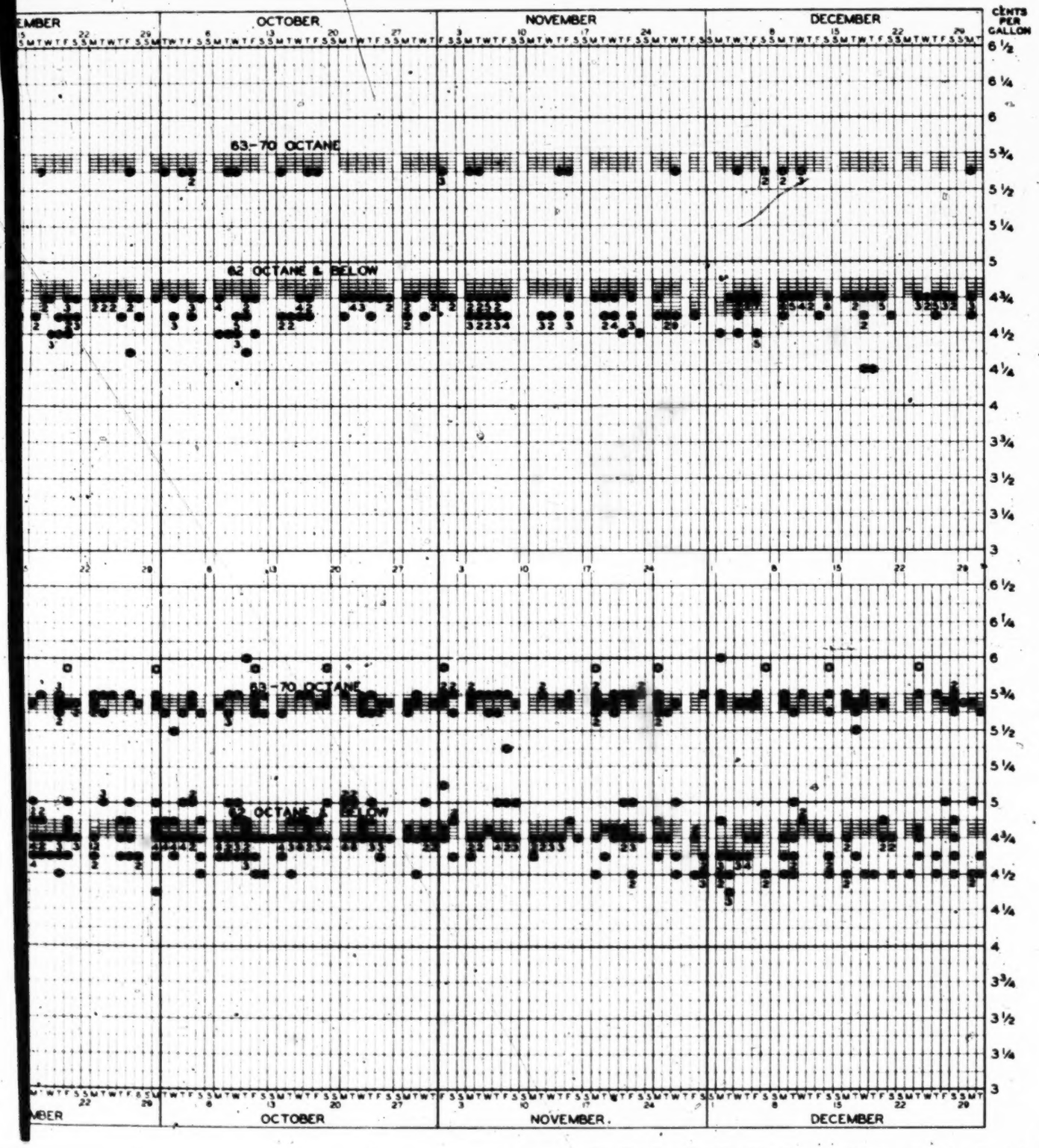
●REGULAR GRADE PURCHASES BY JOBBERS
●THIRD GRADE PURCHASES BY JOBBERS
●REGULAR GRADE PURCHASES BY CONSUMERS
●THIRD GRADE PURCHASES BY CONSUMERS

MAY JUNE JULY AUGUST SEPTEMBER OCTOBER NOVEMBER

QUOTATIONS ARE THOSE ON WHICH THE PRICES SHOWN ARE STATED TO HAVE BEEN PAID. THE ISSUES IN WHICH SUCH QUOTATIONS WERE PUBLISHED ARE DATED ONE OR TWO DAYS LATER

AHOMA REFINERIES

EXHIBIT NO. 1024 3807



DEFENSE EXHIBIT NO. 1025.

Summary of F. O. B. Group 3 and F. O. B. Oklahoma Refinery Flat Price Purchases by Defendant Companies from Independent Refiners and Brokers of Regular and Third Grade Gasoline, Compared with Chicago Journal of Commerce Quotations.

Period	Above High		At High		Within range		At Low		Under Low		Total	
	Pur.	Cars	Pur.	Cars	Pur.	Cars	Pur.	Cars	Pur.	Cars	Pur.	Cars
January 1, 1935 to April 30, 1936: Totals	16	52	41	265	114	722	841	4,473-2/3	404	1,597-2/3	1,416	7,110-1/3
Percentage....	1.1%	.7%	2.9%	3.7%	8.0%	10.2%	59.5%	62.9%	28.5%	22.5%	100%	100%
March 1, 1935 to May 31, 1935: Totals	4	8	15	50	21	105	256	986	162	681-2/3	458	1,830-2/3
Percentage....	.9%	.4%	3.3%	2.7%	4.6%	5.7%	55.9%	53.9%	35.3%	37.3%	100%	100%
March 1, 1935 to April 30, 1936: Totals	12	48	38	254	108	690	825	4,419-2/3	392	1,508-2/3	1,375	6,920-1/3
Percentage....	.9%	.7%	2.8%	3.7%	7.8%	9.9%	60.0%	63.9%	28.5%	21.8%	100%	100%

DEFENSE EXHIBIT NO. 1026.

Summary of F.O.B. Group 3 and F. O. B. Oklahoma Refinery Flat Price Purchases by Defendant Companies from Independent Refiners and Brokers of Regular and Third Grade Gasoline, Compared with Platt's Oilgram for the Oklahoma Refinery Market

Period	Above High		At High		Within Range		At Low		Under Low		Total	
	Pur.	Cars	Pur.	Cars	Pur.	Cars	Pur.	Cars	Pur.	Cars	Pur.	Cars
January 1, 1935 to April 30, 1936												
Totals	19	59	69	397	4	8	577	3052-1/2	483	1755-2/3	1152	5272-1/6
Percentage	1.7%	1.1%	6.0%	7.5%	.3%	.2%	50.1%	57.9%	41.9%	33.3%	100%	100%
March 1, 1935 to May 31, 1935												
Totals	7	15	7	33	9	41	179	758	256	983-2/3	458	1830-2/3
Percentage	1.5%	18%	1.5%	1.8%	2.0%	2.2%	39.1%	41.4%	55.9%	53.8%	100%	100%
March 1, 1935 to April 30, 1936												
Totals	15	55	72	420	9	41	766	4491-2/3	513	1912-2/3	1375	6920-1/3
Percentage	1.1%	.8%	5.2%	6.1%	.7%	.6%	55.7%	64.9%	37.3%	27.6%	100%	100%

6093 **DEFENSE EXHIBIT NO. 1027.**

94

PERATING REFINERY CAPACITY—TIDE WATER ASSOCIATED OIL COMPANY, GULF REFINING COMPANY, THE TEXAS COMPANY, DEEP ROCK OIL COMPANY

(According to Bureau of Mines Information Circulars 6850 and 6906)

Company	January 1, 1935		January 1, 1936	
	Refinery	Cracking	Refinery	Cracking
Tide Water				
Tide Water Oil Co. Oklahoma, Drumright	15,000	7,000	15,000	7,000
Associated & Watson, Calif	61,500	21,000	57,500	28,500
Bayonne, N. J	50,000	21,000	50,000	21,000
	126,500	49,000	122,500	56,500
Gulf				
Staten Island, N. Y	15,000	–	15,000	–
Hooven & Toledo, Ohio	27,000	19,500	26,000	27,200
Neville Island & Girard Pt., Pa	40,000	36,400	40,000	27,600
Port Arthur, Ft. Worth & Sweetwater, Texas	111,000	63,000	111,000	63,000
	193,000	118,900	192,000	117,800
Texas				
Fillmore & Los Angeles, Calif	34,000	8,200	34,000	8,200
Craig, Colorado	1,000	1,000	1,000	1,000
Claymont, Del	2,000	–	2,000	–
Lawrenceville, Ill. (Indian)	16,000	5,800	16,000	6,900
Lockport, Ill	20,000	16,400	20,000	17,000
Pryse, Ky	2,500	2,000	2,500	2,000
Shreveport, La	7,000	–	7,000	–
Sunburst, Mont. (International)	3,000	2,000	3,000	2,500
West Tulsa, Okla	14,000	13,600	14,000	14,600
Providence, R. I	2,000	–	2,000	–
State of Texas (7 locations)	140,500	113,700	148,300	118,300
Norfolk, Va	2,000	–	2,000	–
Casper & Cody, Wyo	10,000	6,800	10,000	9,000
	254,000	169,500	261,800	179,500
Deep Rock				
Cushing, Oklahoma	10,000	4,000	10,000	4,000
Totals	583,500	341,400	586,300	351,000

6095 **DEFENSE EXHIBIT NO. 1028.**

6096 It Is Hereby Stipulated by and between the parties herein that the quantities of gasoline sold directly, or by subsidiaries, by the following companies,

Barnsdall Refining Corporation (and predecessor),
Continental Oil Company,
Deep Rock Oil Corporation,
Empire Oil and Refining Company,
The Globe Oil and Refining Company (Kansas, Oklahoma and Illinois),
Mid-Continent Petroleum Corporation,
Phillips Petroleum Company,
The Pure Oil Company,
Shell Petroleum Corporation,
Sinclair Refining Company,
Skelly Oil Company,
Socony-Vacuum Oil Company, Inc. (including Wadhams Oil Company and Magnolia Petroleum Company),
Standard Oil Company (Indiana),
The Texas Company,
and
Tide Water Oil Company, (Oklahoma),

in the territory described in the indictment herein as the Mid-Western area, consisting of the States of Michigan, Wisconsin, Minnesota, North Dakota, South Dakota, Iowa, Illinois, Indiana, Missouri and Kansas, during the year 1935, and the amounts thereof sold through their own retail outlets, to jobbers, and to other persons or corporations, as reflected by the books and records of said companies,
6097 are as set forth in Exhibit "A" hereto annexed (the figures for Deep Rock Oil Corporation, The Texas Company and Tide Water Oil Company (Oklahoma) being approximations); that the quantities of gasoline sold directly or by subsidiaries, by said companies in said territory described in the indictment as the Mid-Western area from January 1, 1936 to July 31, 1936, inclusive, and the amounts thereof sold through their own retail outlets, to jobbers, and to other persons or corporations, as reflected by the books and records of said companies, are as set forth in Exhibit "B" hereto annexed, (the figures for Deep Rock Oil Corporation, The Texas Company and Tide Water Oil Company (Oklahoma) being approximations).

As so stipulated, said figures are received in evidence in the above entitled action without objection.

It is further stipulated that the defendant Cities Service Company itself sold no gasoline in said Mid-Western area or elsewhere in the United States in the above mentioned periods.

EXHIBIT "A"

SALES OF GASOLINE IN MID-WESTERN AREA BY CERTAIN COMPANIES
For the Year 1935—In Gallons

Companies Selling Directly or by Subsidiaries	Through Own Retail Stations	To Jobbers	To All Others	Grand Total
Barnsdall Refining Corp. and predecessor	63,135,744	1,312,552	20,392,258	84,840,554
Continental Oil Company	159,803	47,859,206	84,028,104	132,047,113
Deep Rock Oil Corporation (Approx.)	2,000,000	12,000,000	27,000,000	41,000,000
Empire Oil & Refining Company	36,835,203	34,778,534	114,391,546	186,005,283
The Globe Oil & Refining Company (Kansas, Oklahoma and Illinois).		164,513,639	11,471,724	175,985,363
Mid-Continent Petroleum Corporation	77,539,266	129,761,224	726,468	208,026,958
Phillips Petroleum Company	80,428,469	132,051,472	185,467,756	397,947,697
The Pure Oil Company	26,046,171	102,575,068	36,107,917	164,729,156
Shell Petroleum Corporation	127,250,818	66,249,947	164,257,235	357,758,000
Sinclair Refining Company	14,845,240	44,457,167	325,228,467	384,530,874
Skelly Oil Company	18,842,337	80,361,283	48,661,004	147,864,624
Socony-Vacuum Oil Company, Inc. (Including Wadhams and Magnolia)	53,198,132	84,483,527	214,512,392	352,194,051
Standard Oil Company (Indiana)	305,831,418	745,195	726,761,704	1,033,338,317
The Texas Company (Approx.)				309,000,000
Tide Water Oil Co. (Oklahoma) (Approx.)	2,500,000	75,000,000	3,000,000	80,500,000
Totals	808,612,601	976,148,814	1,962,006,575	4,055,767,990

Defense Exhibit No. 1028.

EXHIBIT "B"

SALES OF GASOLINE IN MID-WESTERN AREA BY CERTAIN COMPANIES

For the First Seven Months of 1936—In Gallons

Companies Selling Directly or by Subsidiaries	Through Own Retail Stations	To Jobbers	To All Others	Grand Total
Barnsdall Refining Co. and predecessor	29,590,892	487,257	10,971,667	41,049,816
Continental Oil Company	22,778	32,902,939	41,971,282	74,896,999
Deep Rock Oil Corporation (Approx.)	500,000	5,000,000	15,500,000	21,000,000
Empire Oil & Refining Company	15,992,597	20,165,748	75,627,966	111,786,311
The Globe Oil & Refining Co. (Kansas, Oklahoma and Illinois)		102,736,029	3,200,000	105,936,029
Mid-Continent Petroleum Corporation	49,581,363	75,039,742	535,552	125,156,657
Phillips Petroleum Company	44,419,342	77,673,974	109,200,950	231,294,266
The Pure Oil Company	17,070,875	71,090,043	22,530,089	110,691,007
Shell Petroleum Corporation	36,917,569	41,394,468	141,506,585	219,818,622
Sinclair Refining Company	3,896,473	25,284,937	205,207,481	234,388,891
Skelly Oil Company	7,915,579	47,811,011	31,146,268	86,872,858
Socony-Vacuum Oil Company, Inc. (Including Wadhams and Magnolia)	23,109,614	57,439,359	136,149,547	216,698,520
Standard Oil Company (Indiana)	63,788,838	1,057,722	570,840,588	635,687,148
The Texas Company (Approx.)				193,000,000
Tide Water Oil Co. (Oklahoma) (Approx.)	1,500,000	44,000,000	1,500,000	47,000,000
Totals	294,305,920	602,083,229	1,365,887,975	2,455,277,124

EXHIBIT "C"

SALES OF GASOLINE IN MID-WESTERN AREA BY PRESENT DEFENDANT MAJOR COMPANIES
For the Year 1935
In Gallons

Companies Selling Directly or by Subsidiaries	Through Own Retail Stations	To Jobbers	To All Others	Grand Total
Barnsdall Refining Corporation and predecessor	63,135,744	1,312,552	20,392,258	84,840,554
Continental Oil Company	159,803	47,859,206	84,028,104	132,047,113
Empire Oil & Refining Company	36,835,203	34,778,534	114,391,546	186,005,283
The Globe Oil & Refining Company (Kansas, Oklahoma and Illinois)		164,513,639	11,471,724	175,985,363
Mid-Continent Petroleum Corporation	77,539,266	129,761,224	726,468	208,026,958
Phillips Petroleum Company	80,428,469	132,051,472	185,467,756	397,947,697
The Pure Oil Company	26,046,171	102,575,068	36,107,917	164,729,156
Shell Petroleum Corporation	127,250,818	66,249,947	164,257,235	357,758,000
Sinclair Refining Company	14,845,240	44,457,167	325,228,467	384,530,874
Skelly Oil Company	18,842,337	80,361,283	48,661,004	147,864,624
Socony-Vacuum Oil Company, Inc. (Including Wadhams and Magnolia)	53,198,132	84,483,527	214,512,392	352,194,051
Standard Oil Company (Indiana)	305,831,418	745,195	726,761,704	1,033,338,317
Totals	804,112,601	889,148,814	1,932,006,575	3,625,267,990

EXHIBIT "D"

SALES OF GASOLINE IN MID-WESTERN AREA BY PRESENT DEFENDANT MAJOR OIL COMPANIES

For the First Seven Months of 1936

In Gallons

Companies Selling Directly or by Subsidiaries	Through Own Retail Stations	To Jobbers	To All Others	Grand Total
Barnsdall Refining Corporation and predecessor	29,590,892	487,257	10,971,667	41,049,816
Continental Oil Company	22,778	32,902,939	41,971,282	74,896,999
Empire Oil & Refining Company	15,992,597	20,165,748	75,627,966	111,786,311
The Globe Oil & Refining Company (Kansas, Oklahoma and Illinois)		102,736,029	3,200,000	105,936,029
Mid-Continent Petroleum Corporation	49,581,363	75,039,742	535,552	125,156,657
Phillips Petroleum Company	44,419,342	77,673,974	109,200,950	231,294,266
The Pure Oil Company	17,070,875	71,090,043	22,530,089	110,691,007
Shell Petroleum Corporation	36,917,569	41,394,468	141,506,585	219,818,622
Sinclair Refining Company	3,896,473	25,284,937	205,207,481	234,388,891
Skelly Oil Company	7,915,579	47,811,011	31,146,268	86,872,858
Socony-Vacuum Oil Company, Inc. (Including Wadhams and Magnolia)	23,109,614	57,439,359	136,149,547	216,698,520
Standard Oil Company (Indiana)	63,788,838	1,057,722	570,840,588	635,687,148
Totals	292,305,920	553,083,229	1,348,887,975	2,194,277,124

6102 DEFENSE EXHIBIT NO. 1029.

For Identification.

6103 1—480

UNITED STATES OF AMERICA

DEPARTMENT OF THE INTERIOR.
Washington, D. C.

Sep 20 1937

Pursuant to Title 28, Paragraph 661, United States Code, I hereby certify that annexed is a true copy of the document described below, which is in official custody of the Department of the Interior, and is on file in the Department.

An Order dated June 23, 1934, signed by Harold L. Ickes, with attached copies of the Pacific Coast Petroleum Agency Agreement and the Refiners' Agreements and the agreements made supplemental thereto.

In Testimony Whereof, I have hereunto subscribed my name, and caused the seal of the Department of the Interior to be affixed, the day and year first above written.

Oscar L. Chapman,
(Seal) *Assistant Secretary of the Interior.*

6104 Order
Under the Code of Fair Competition
For the Petroleum Industry
and the
National Industrial Recovery Act

Whereas, certain refiners of petroleum and its products operating in the States of California, Oregon, Arizona, Nevada, and that part of Washington which is west of the Cascade Mountains, have submitted to me agreements known as the Pacific Coast Petroleum Agency Agreement and Refiners' Agreements, which Agreements are complementary, and which have been submitted to me under

Section 4, sub-section (a), of the Act of June 16, 1933, known as the National Industrial Recovery Act, and

Whereas, the signatories to the said Pacific Coast Petroleum Agency Agreement and the said Refiners' Agreements have executed agreements supplemental thereto, and

Whereas, I have carefully investigated conditions in the petroleum industry and the situation giving rise to the submission of said agreements and have found that for several months the market for petroleum and its products in California has been in a demoralized state, and that unless action directed towards stabilization is taken, small enterprise cannot hope to survive, and I have found further that continued losses due to unrestrained competition have resulted in the general breakdown of the provisions of the National Industrial Recovery Act and 6105 of the Code of Fair Competition for the Petroleum Industry approved thereunder, and

Whereas, I have found that the aforesaid agreements are not designed to promote monopoly or to eliminate or oppress small enterprises and will not operate to discriminate against them, and will tend to effectuate the policy of the National Industrial Recovery Act.

Now, Therefore, pursuant to the authority vested in me by the President's Order of August 28, 1933, issued under the authority of Section 2 (a) of the National Industrial Recovery Act, the said agreements known as the Pacific Coast Petroleum Agency Agreement and the Refiners' Agreements and the agreements made supplemental thereto, copies of which are attached hereto, are hereby approved.

Promulgated this 23d day of June, 1934.

Harold L. Ickes
Secretary of the Interior
and
Administrator for the
Petroleum Industry.

6106 This Agreement Made This _____ day of June, 1934, By And Between _____ hereinafter called Refiner (who has executed an agreement known as Refiners' Agreement with Pacific Coast Petroleum Agency and Harold L. Ickes, Secretary of the Interior and Administrator of the Code of Fair Competition for the Petroleum Industry); And

Harold L. Ickes, as Petroleum Administrator.

Witnesseth:

1. Each of the parties hereto agrees to abide by and conform to the provisions of the Code of Fair Competition for the Petroleum Industry and the amendments thereto and the rules, regulations and orders made in pursuance thereof, so long as it or they remain in effect; provided, however, that nothing in this paragraph contained shall prevent any such party while so abiding and conforming from contesting in good faith before any court, board or official having competent jurisdiction over the same, the validity, meaning or effect of any provision thereof.

2. Each of the parties hereto agrees that he shall conduct his operations under the said Refiners' Agreement so as to eliminate unfair competitive practices, prevent monopolies or monopolistic practices, prevent the elimination or oppression of, or discrimination against, small enterprises, prevent unreasonable or inordinate prices to the public and generally to effectuate the purposes of the National Industrial Recovery Act.

6107 3. Each of the parties agrees that he shall from time to time and within twenty (20) days after notice of demand by letter or telegram from the Attorney General, report or cause to be reported to the Attorney General and to the Petroleum Administrator under oath, such facts and things concerning the operations, activities and records of said Pacific Coast Petroleum Agency, insofar as they concern Refiner, and the operations, activities and records of the parties respectively, and each of them, relating to said Refiners' Agreement as may be required in such notice or demand.

4. Each of the parties agrees without limiting or abridging the full force and effect of Section 12(a) of said Refiners' Agreement, said section shall be construed as including the agreement of each of the parties not to permit gasoline, engine distillate or motor fuel, sold by it, or marketed by it indirectly, to be resold, at wholesale or

retail, except for the same price for the identical product as such party manufacturing the same shall post for direct sale, whether such product be sold or resold without brand or under the same brand or under a different brand. Such posted price shall be an actual published price at which sales are being actually made in the open market and in regular course of business and free from collusion between buyer and seller, and shall not include false, collusive or fictitious nominal posting made or published
6108 for the purpose of defeating the foregoing provisions, or the provisions of said Section 12(a).

5. Section 17 of said Refiners' Agreement is hereby incorporated herein and made a part hereof as though fully set forth herein.

In Witness Whereof, the parties hereto have caused this agreement to be executed the day and year first above written.

.....

.....

Secretary of the Interior and Administrator of the Code of Fair Competition for the Petroleum Industry.

6109 Agreement Supplemental to Pacific Coast Petroleum Agency Agreement

This Agreement, made as of the ..... day of June, 1934 By And Among companies and persons signatory hereto, engaged in the Petroleum Industry on the Pacific Coast, and who have executed an agreement known as the Pacific Coast Petroleum Agency Agreement, which has been heretofore filed with Harold L. Ickes, Secretary of the Interior, Administrator of the Code of Fair Competition for the Petroleum Industry, And

Harold L. Ickes, as Petroleum Administrator,

Witnesseth:

1. Each of the parties hereto agrees to abide by and conform to the provisions of the Code of Fair Competition for the Petroleum Industry and the amendments thereto and the rules, regulations and orders made in pursuance thereof, so long as it or they remain in effect; provided, however, that nothing in this paragraph contained shall prevent any such party while so abiding and conforming from contesting in good faith before any court, board or official having competent jurisdiction over the same, the validity, meaning or effect of any provision thereof.

2. Each of the parties hereto agrees that he shall conduct his operations under the said Pacific Coast Petroleum Agency Agreement so as to eliminate unfair competitive practices, prevent monopolies or monopolistic practices, prevent the elimination or oppression of, or discrimination against, small enterprises, prevent unreasonable or inordinate prices to the public and generally to effectuate the purposes of the National Industrial Recovery Act.

6110 3. Each of the parties agrees that he shall from time to time and within twenty (20) days after notice of demand by letter or telegram from the Attorney General, report or cause to be reported to the Attorney General and to the Petroleum Administrator, under oath, such facts and things concerning the operations, activities and records of said Pacific Coast Petroleum Agency, and the operations, activities and records of the parties respectively, and each of them, relating to said Pacific Coast Petroleum Agency Agreement as may be required in such notice or demand.

4. Each of the parties agrees that without limiting or abridging the full force and effect of Section 12(a) of that certain Agreement entered into between certain Refiners and the Pacific Coast Petroleum Agency, known as the Refiners' Agreement, said section shall be construed as including the agreement of each of the parties not to permit gasoline, engine distillate or motor fuel, sold by it, or marketed by it indirectly, to be resold, at wholesale or retail, except for the same price for the identical product as such party manufacturing the same shall post for direct sale, whether such product be sold or resold without brand or under the same brand or under a different brand. Such posted price shall be an actual published price at which sales are being actually made in the open market and in regular course of business and free from collusion between buyer and seller, and shall not include, false, collusive or fictitious nominal posting made or published for the purpose of defeating the foregoing provisions or the provisions of said Section 12(a).

6111 5. Sections 13 and 14 of the said Pacific Coast Petroleum Agency Agreement are hereby incorporated herein and made a part hereof as though fully set forth herein.

6. This agreement may be executed in any number of counterparts.

In Witness Whereof, the parties hereto have caused

this agreement to be executed the day and year first above written.

_____

_____

Secretary of the Interior and Administrator of the Code of Fair Competition for the Petroleum Industry.

6112 Pacific Coast Petroleum Agency Agreement

6113 This Agreement, made as of the _____ day of _____, 1934, by and among the companies and persons signatory hereto, engaged in the petroleum industry on the Pacific Coast, hereinafter called the Members, and by all of the Members with Harold L. Ickes, Secretary of the Interior and Administrator of the Code of Fair Competition for the Petroleum Industry, hereinafter called the Administrator,

Witnesseth:

That Whereas, because of the very definite need for rehabilitation of the petroleum industry on the Pacific Coast to the end that the facilities for distribution of petroleum and its products may be maintained, that the growth of monopoly resulting from uncontrolled and damaging competition may be prevented, and that adequate supplies of petroleum and its products may be made available to consumers at fair and reasonable prices, it has become necessary to provide for the termination of certain prevailing undesirable conditions and unsound marketing practices pertaining thereto, and to provide a means whereby oil operators on the Pacific Coast may be able to dispose of their surplus petroleum products without loss and to provide means whereby refiners may be offered a source of crude supply to meet their requirements, and to provide a fair market for all crude oil produced under curtailment,

6114 Now, Therefore, the parties hereto, acting under the National Industrial Recovery Act and the Code of Fair Competition for the Petroleum Industry, do hereby agree as follows:—

Article One

Sec. 1. This agreement shall not become effective until approved by the Administrator and until permitted by proceedings necessary under the provisions of the Order

Modifying Final Decree made September 25, 1933, by the District Court of the United States for the Northern District of California, Southern Division, in the case of United State of America, Petitioner, *vs.* Standard Oil Company of California *et al.*, Defendants, numbered 2542-S in Equity, on the files of said Court, modifying the Final Decree made and entered by said Court in said cause on the 15th day of September, 1930.

Article Two

Sec. 1. The members hereby voluntarily associate themselves in a group to be known as the Pacific Coast Petroleum Agency, the purposes of which shall be as follows:

To purchase, hold and dispose of fairly and with due regard to market demands, gasoline manufactured on the Pacific Coast by others than members and refiners subsidiary to, or controlled by such members, which the manufacturers thereof may desire to sell and is in excess of the quantity which the manufacturers thereof can market without creating disorderly marketing conditions, and which, if not so purchased, would result in the burdening of the gasoline market on the Pacific Coast with
6115 gasoline uneconomically distributed, and which would otherwise be sold at prices bearing no proper relationship to the price of crude oil thereby directly affecting the stability of gasoline markets and the prosperity of the petroleum industry on the Pacific Coast, and leading to price cutting and destructive price wars which affect interstate commerce and frustrate the purposes of the said Act and Code; and to purchase, hold and dispose of fairly and with due regard to market demands, crude oil, natural gasoline, and other petroleum products produced in California by others than Members and producers subsidiary to, or controlled by such Members, which the producers thereof may desire to sell and which is in excess of the quantity which the producer can sell without creating disorderly marketing conditions; and, to the extent that such crude oil may be available, to sell the same to refiners; to purchase crude oil from refiners which they have in excess of the amount of refiners' requirements for manufacturing their allotted gasoline under contracts with the Agency; to post a price for and to purchase marketable residuum, distillate, and kerosene from refiners who have entered into contracts with the Agency;

Provided, however, the Agency shall not purchase any crude oil, or the products thereof, produced, or which there

is good reason to believe was produced, in violation of the Code of Fair Competition for the Petroleum Industry, or amendments thereto, or in excess of the allowable production as so assigned to the producer thereof.

6115½ **Article Three.**

And for the carrying out of such purposes the parties hereto agree as follows:

Sec. 1. Membership herein shall be open to all refiners and marketers of petroleum products on the Pacific Coast until such time as this agreement is submitted to the Administrator for his approval, and thereafter upon approval of the Administrator.

Sec. 2. The control and management of the Agency shall be vested in a Board of Governors which shall consist of one Governor appointed by each Member at the time of signature hereto, except that a Member whose commitments to purchase from or supply petroleum products to the refiners entering into agreements with the Agency is guaranteed or assumed by another Member shall not be entitled to appoint a Governor. Such appointments may be changed or alternates appointed by the Members from time to time. Upon subscription hereto by Associated Oil Company, General Petroleum Corporation of California, William C. McDuffie, as Receiver of Richfield Oil Company, Shell Oil Company, Standard Oil Company of California, The Texas Company (California), Union Oil Company of California, Rio Grande Oil Company, Gilmore Oil Company, Seaside Oil Company, Guardian Oil Company, Signal Oil Company, and Rocket Oil Company, this agreement shall be submitted as provided in Article One hereof for approval and upon such approval and when permitted by proceedings necessary under the provisions
6116 of said Order Modifying Final Decree made September 25, 1933, referred to in said Article, this agreement shall become effective. The Board may appoint an Executive Committee and fix its power, and make rules and regulations for the government of the Agency and the conduct of its business. The Board shall elect a President, one or more Vice-Presidents, a Secretary, Treasurer, and such other officers and assistants as it shall deem advisable, and shall define the duties and fix the compensation of such officers and assistants. The members of the Board of Governors and executive committee, however, shall serve without compensation.

Sec. 3. Each governor shall be entitled to an equal vote

with every other governor on questions coming before the Board. The Administrator may appoint a non-voting member of the Board of Governors and an alternate.

Sec. 4. The Board of Governors, subject to the supervision and control of the Administrator, may determine what purchases and sales of crude oil, marketable residuum, distillate and/or kerosene shall be made hereunder.

Sec. 5. The assenting vote of two-thirds (⅔) of the members of the Board of Governors shall be necessary and sufficient to carry any matter not contrary to the provisions of this agreement; except that the Agency shall not borrow money except on the unanimous vote of the Board.

Sec. 6. The form of contract with Refiners shall be in substance in accordance with the form attached hereto and marked "Exhibit A". The Members hereby author-
6117 ize the Agency to bind each of them severally to the provisions of the contract entered into between the Agency and Refiners in accordance with the form attached in regard to the conditions, stipulations, and restrictions in marketing, and the manner in which marketing shall be done, all as set out in Sections VII, XII and XIII in said form of agreement.

Sec. 7. The Board of Governors shall have all requisite powers relative to the transportation, storage, and sale of products purchased hereunder, and the distribution of funds among the subscribers in proportion to their respective interests.

Sec. 8. No Member shall be liable for the obligations of other Members or of the Agency, except as covered by special written agreement, beyond his or its pro rata share as hereinafter provided.

Sec. 9. Separate accounting shall be made by the Agency to each of the Members for each of the Funds established herein.

(A) Operating Capital Fund.

In order to provide funds for the current operating expenses of the Agency an Operating Capital Fund of Fifteen Thousand Dollars ($15,000.00) shall be established, to which a contribution shall be made by each of the Members in the proportion that the quantity of gasoline sold by such Member for consumption in the States of California, Oregon, Washington, Arizona and Nevada during the year 1933 bears to the total quantity of
6118 gasoline sold by all Members for consumption in the same territory during the same period.

Distribution of this fund to the Members shall be made upon the expiration or earlier discontinuance of this contract in the exact ratio of their respective contributions.

(B) Operating Expense Fund.

The total amount of this fund shall be determined for each month and shall include the operating expenses of the Agency and the amounts of earnings and loses arising from the purchase and sale of products and from other sources during the month.

Upon determination of the total amount of the Operating Expense Fund for the preceding month, the Board of Governors shall issue a call upon each Member for his proportion of such Operating Expense Fund and same shall be paid immediately. The proportion of the total Operating Expense Fund payable by each Member shall be the proportion that the quantity of gasoline sold by such Members for consumption in the States of California, Oregon, Washington, Arizona and Nevada during the preceding month bears to the total quantity of gasoline sold by all Members for consumption in the same territory during the same period.

(C) Gasoline Purchase Fund.

The obligation of each Member to purchase gasoline from the Agency shall be determined in the following manner: The total quantity shall be the total quantity of gasoline acquired by the Agency for each month and the total cost shall be the total cost incurred by the
6119 Agency for each month in the purchase of such total quantity. The gasoline purchased by the Agency shall be divided among the Members so that there is no discrimination among them in the quality of gasoline received by each. The proportion of the total quantity which each Member shall purchase from the Agency for each month shall be the proportion that the quantity of gasoline sold by such Member for consumption in the States of California, Oregon, Washington, Arizona and Nevada during the month bears to the total quantity of gasoline sold by all Members for consumption in the same territory during the same period. The proportion of the total cost which shall be paid to the Agency by each Member for such gasoline so purchased from the Agency shall be the same proportion as that established for determination of the quantity to be purchased.

Upon determination of the total quantity and total cost for the month, the amount payable by each Member shall be payable on call by the Board of Governors.

The Agency shall conduct its liftings from refiners and deliveries to Members in the most economical manner which will enable each Member to receive during each month, as nearly as can be estimated, such Member's proper share of gasoline. Differences between the quantities and qualities actually received by Members and the quantities and qualities which Members should have received by operation of the formula herein established will be set up in exchange accounts between the Agency and the Members.

6120 (D) Crude Oil Purchase Fund.

The obligation of each Member to purchase crude oil from the Agency shall be determined in the following manner: The total quantity shall be the total quantity of crude oil acquired by the Agency for each month and the total cost shall be the total cost incurred by the Agency for each month in the purchase of such total quantity. The crude oil purchased by the Agency shall be divided among the Members so that there is no discrimination among them in the quality of oil received by each. The amount of crude which each Member shall purchase from the Agency for each month shall be the proportion that the quantity of gasoline sold by such Member for consumption in the States of California, Oregon, Washington, Arizona and Nevada during the month bears to the total quantity of gasoline sold by all Members for consumption in the same territory during the same period. The proportion of the total cost of each quality which shall be paid to the Agency by each Member for such crude oil so purchased from the Agency shall be the exact cost applicable to the crude oil actually received by the Member during the month.

Upon determination of the total quantity and total cost for the month, the amount payable by each Member shall be payable upon call by the Board of Governors.

The Agency shall conduct its lifting from producers and refiners and deliveries to Members in the most economical manner which will enable each Member to receive during each month, as nearly as can be estimated, its proper share of crude oil. Differences between the
6121 quantities and qualities actually received and paid for by Members and the quantities and qualities

which Members should have received and paid for by operation of the formula herein established will be set up in exchange accounts between the Members upon advice by the Agency.

(E) Crude Oil Sale and Distribution.

The obligation of each Member to furnish refinable crude oil to the Agency to meet Agency's obligations under its contracts with Refiners shall be determined in the following manner:

First: Each Member shall furnish part or all of the refinable crude oil purchased by such Member from the Agency through the operation of the Crude Oil Purchase Fund from the effective date of this agreement. In the event the total quantity of such purchases made by all Members is in excess of the quantity required by the Agency, the proportion of the quantity required by the Agency to be furnished by each Member shall be the proportion that the quantity so purchased by such members bears to the total quantity so purchased by all Members.

Second: In the event the total quantity required by the Agency is in excess of the quantity available under "First", each Member shall furnish part or all of the net refinable crude oil added to such Member's stocks from the date of this agreement up to the last day of the preceding month. In the event the total quantity of such additions to stocks made by all Members is in excess of the remaining quantity required by the Agency, the proportion of the remaining quantity required by the Agency to be furnished by each Member shall be the proportion that the quantity so added to stocks by such Member bears to the total quantity so added to stocks by all Members adding crude oil to stocks.

6121½

Third: In the event the total quantity required by the Agency is in excess of the quantity available under "First" and "Second", the Agency Members shall jointly apply to the Planning and Coordination Committee, Washington, D. C., or other proper agency or authority, in the manner prescribed by the regulations then in force, for permission to withdraw refinable crude oil from stocks. The total quantity of refinable crude oil for which application for permission to withdraw from storage is made shall be the total quantity, in excess of the quantity available under "First" and "Second", required by the Agency to fulfill its obligations to Refiners for such period of time as the Board of Governors may determine is necessary, and the propor-

tion of the total quantity which each Member shall request permission to withdraw from storage shall be the proportion that the quantity of gasoline sold by such Member for consumption in the States of California, Oregon, Washington, Arizona and Nevada during such period bears to the total quantity of gasoline sold by all such Members for consumption in said states during the same period.

In the event the joint application of said Agency Members for permission to withdraw refinable crude oil from storage for said purpose is approved, the quantities to be furnished by the respective Members shall be the quantities of allowable stock withdrawal assigned to each.

6122 In the event the joint application of the Agency Members for permission to withdraw refinable crude oil from storage for said purpose is disapproved or in the event five (5) days (excluding the day of filing) elapse after the filing of such application without approval or disapproval thereof, and compliance by any Member with its obligation to furnish crude oil to the Agency under this part of the formula would either require such Member to make unauthorized withdrawals of crude oil from storage or to reduce its gasoline production below the allowable gasoline production allocated to it by the Administrator or the Administrator's authorized agent, the Agency shall forthwith give to each Refiner notice of termination of its agreement with him, as in its agreement with him provided, and pursuant to such notice shall terminate such agreement.

In the event of such termination each Agency Member shall during the interim period until such termination becomes effective furnish to the Agency its proportionate quantity of refinable crude oil to enable the Agency to fulfill its obligation to Refiners and to that end shall, if necessary, reduce its own crude runs to such extent as to enable it to deliver its proportion of the total required quantity of allowable crude.

For the refinable crude oil so purchased by the Agency from Members, the Agency shall pay to each of the Members the posted price at the well, effective on the date of delivery, for the particular grade of oil delivered to the Agency plus gathering and transportation charges to

6123 the point of delivery at the rates established for purposes of Federal Pipe Line Tax.

The Agency shall conduct its liftings from Members and deliveries to Refiners in the most economical manner which will enable each Member to deliver during each month, as

nearly as can be estimated, such Member's proper share of refinable crude oil. Differences between the quantities and qualities actually delivered by Members, and the quantities and qualities which Members should have delivered by operation of the formula herein established will be set up in exchange accounts between the Members upon advice by the Agency.

(F) In the event the total quantity of refinable crude oil required by the Agency is less than the quantity available under (E)—"First" and "Second" above, there shall be adjustments made in order that no Member shall add to refinable crude oil stocks so long as such surplus is desired by any other Member who is drawing on his own stocks or is short of crude oil for his own allowable refinery runs. If this event occurs then the Members who are adding to their refinable stock shall furnish crude oil to the Member who is drawing on his own stocks or is short of crude, as hereinabove set out, at the posted prices at the well, effective on the date of delivery. Such Members shall furnish such crude in the proportion that their respective sales of gasoline for consumption in the five states above mentioned bear to the total sales of gasoline for consumption in said states by all such Members.

(G) The Agency shall post prices at which it will purchase from Refiners if, as and when offered, any
6124 marketable residuum, distillate, or kerosene currently produced by Refiners, and such purchases covering each product purchased shall be purchased from the Agency by its Members in proportion that the quantity of gasoline sold by the respective Members for consumption in the States of California, Oregon, Washington, Arizona and Nevada during the month bears to the total quantity sold by all Members for consumption in the same territory during the same period.

(H) The Agency shall conduct its liftings from Refiners and deliveries to Members in the most economical manner which will enable each Member to receive during each month, as nearly as can be estimated, its proper share of marketable residuum, distillate and/or kerosene. Differences between the products, quantity and quality actually received and paid for by Members and the products, quantity and quality which Members should have received and paid for by operation of the formula herein established, will be set up in exchange account by the Members upon advice by the Agency.

(I) In determining the quantity of gasoline sold by the

respective Members during any period, gasoline sold during such period by one Member having the right to appoint a member of the Board of Governors to another Member having a similar right shall be accounted for by the purchaser. All other gasoline sold shall be accounted for by the seller.

(J) All monthly payments, receipts and adjustments above shall be considered interim settlements, and adjustments shall be made on a composite basis every ninety
6125 (90) days and further adjusted at the termination of this agreement; provided that final adjustments as to gasoline purchases shall be made at the end of each quarterly period.

(K) At the end of each ninety (90) day period the Board of Governors shall review all formulae above included and they may adjust, change or cancel existing formulae to meet any inequity which may have developed in their operation, and they may at any time adopt new formulae seeming necessary in the operation of this agreement.

(L) It is the intent that this agreement shall be so administered that the respective Members shall bear the burdens and share the benefits as hereinbefore set forth and that no Member shall profit or escape any burden at the expense of any other Member or Members through or by reason of the operation of this agreement.

Sec. 10. It is agreed that in the event of the breach of any of the terms of this contract a judgment for damages would be of no avail and that none of the parties hereto has an adequate remedy at law against the other; that the Administrator is interested in the full and punctual performance of this contract to protect the public interest and to effect the stabilization of the oil industry, and that adequate relief in case of the breach of any of the terms of this contract can be provided only by means of an injunction for specific performance granted by a Court of Equity.

Sec. 11. Unless sooner terminated in accordance with the provisions of Section 10 (b) of Title I of the National
6126 Industrial Recovery Act, or pursuant to the provisions of Sec. 9 (E) Third, of this Article Three, this agreement shall end on June 15, 1935, or on the discontinuance, repeal, or invalidation of the National Industrial Recovery Act, whichever event occurs first; provided, however, that this agreement may be terminated by any Member on thirty (30) days notice if the production of crude oil in the State of California exceeds the production allocated

to said state by the Petroleum Administrator by more than five per cent (5%) for two successive months, or if at any time there is not available to the Agency and each of its Members out of current allowable production in the State of California sufficient crude oil to supply the full current requirements of its respective Members and at the same time to supply to Refiners who have signed with the Agency contracts substantially in the form of the exhibit hereto attached and marked "Exhibit A", the crude oil which the Agency may be required under said contracts to furnish to them, but the Agency shall continue thereafter only to liquidate.

Sec. 12. The provisions of this agreement shall bind the successors, assigns and legal representatives of Members, and if any Member shall be merged or consolidated with another Member, the Member continuing the business shall succeed to and take over the benefits and burdens of the Member so merged or consolidated; provided, that, in the event each of the merging or consolidating Members was entitled to appoint a member of the Board of Governors, the Member continuing the business shall be entitled to appoint only one member of said Board.

6127 Sec. 13. Since Title I of the National Industrial Recovery Act requires that certain provisions of Section 10 (b) of said Title shall be contained in each agreement approved, prescribed, or issued under said Title, said section is here set forth in full and made a part hereof as follows:

"The President may from time to time cancel or modify any order, approval, license, rule, or regulation issued under this title; and each agreement, code of fair competition, or license approved, prescribed, or issued under this title shall contain an express provision to that effect."

Sec. 14. In compliance with Title I, Sec. 7 (a) of the National Industrial Recovery Act the following conditions are incorporated in and made a part of this agreement, viz.:

"(1) That employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection; (2) that no employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or as-

sisting a labor organization of his own choosing; and (3) that employers shall comply with the maximum hours
6128 of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President."

Sec. 15. The Petroleum Administrator may terminate this agreement at any time upon finding that it is contrary to the public interest. It is contemplated that any such termination by the Petroleum Administrator will permit the Agency to continue to function in the holding, transportation and sale of gasoline and/or crude oil for so long as may be necessary to dispose of gasoline and/or crude oil theretofore purchased.

Sec. 16. The Agency shall join the Planning and Coordination Committee in supporting the federal agency in discharging the duties imposed upon it by the Code of Fair Competition for the Petroleum Industry, of making and enforcing crude oil allocation and controlling the supply of crude oil and gasoline inventories.

Sec. 17. The Agency shall aid such Planning and Coordination Committee in working toward a stabilization of markets by adequate action designed to prevent improper and injurious marketing practices.

Sec. 18. Any notice addressed to the Agency may be delivered to the President, any Vice-President, Secretary or Treasurer of the Agency in person, or by mail or telegram, and shall be effective as to the Agency and every Member thereof upon such delivery.

Sec. 19. This agreement may be executed in any number of counterparts.

6129 In Witness Whereof, the undersigned have executed these presents the day and year first above written.

Associated Oil Company
By_____
President
And_____
Secretary

General Petroleum Corporation of California
By_____
President
And_____
Secretary

_____
As Receiver of Richfield Oil Company

Shell Oil Company

By_____

President

And_____

Secretary

6130 Standard Oil Company of California

By_____

President

And_____

Secretary

The Texas Company (California)

By_____

President

And_____

Secretary

Union Oil Company of California

By_____

President

And_____

Secretary

Rio Grande Oil Company

By_____

President

And_____

Secretary

6131 Gilmore Oil Company

By_____

President

And_____

Secretary

Seaside Oil Company

By_____

President

And_____

Secretary

Guardian Oil Company

By_____

President

And_____

Secretary

Signal Oil Company

By_____

President

And_____

Secretary

6132

Rocket Oil Company

By_____

President

And_____

Secretary

6133

6134 **EXHIBIT "A"**

This Agreement, made this ..... day of May, 1934, by and between .....

.....

.....

hereinafter called the Refiner, Pacific Coast Petroleum Agency, an unincorporated association, hereinafter called the Agency, and Harold L. Ickes, Secretary of the Interior and Administrator of the Code of Fair Competition for the Petroleum Industry, hereinafter called the Administrator,

Witnesseth:

Whereas, the Refiner is now manufacturing gasoline at Refiner's refinery in the County of.....; State of California, at a location more particularly described as follows:

and is desirous of selling to the Agency gasoline, which Refiner may manufacture in excess of Refiner's current requirements, and the Agency is willing to purchase the same to the extent and on the terms and conditions hereinafter stated,

6135 Now, Therefore, the parties hereto agree as follows:

Section I.

The Refiner hereby sells and agrees to deliver to the Agency and Agency agrees to purchase and receive at the price and upon the terms and conditions hereinafter set forth all of the gasoline which may be currently manufactured by the Refiner at Refiner's said refinery which the Refiner fails to market under his own refinery brands, or under the brands heretofore filed with the Agency, in an orderly way and on the terms and conditions hereinafter stipulated under which the Refiner is obligated to sell his said gasoline. For the purpose of this agreement all gasoline sold by Refiner shall be deemed to be gasoline currently manufactured by him under his quota.

Section II.

All deliveries made hereunder are to be made by the Refiner into the Agency's tank cars or tank trucks, or by pipe lines, at the above described refinery. Quantities of delivery shall be determined by the parties at the time and place of delivery, in the usual and customary manner cor-

rected to 60° Fahrenheit. It is contemplated that deliveries shall be made as nearly as practicable as and when the gasoline is manufactured, and, unless with the special permission of the Agency, shall not be delivered more than thirty (30) days after the time of manufacture.

Section III.

The gasoline to be purchased and delivered hereunder shall be of the same quality as is manufactured by the Refiner and regularly sold in his usual course of business, but in no event shall it be inferior to the following vaporization range and octane rating:

	10%	122° to 176° F. Maximum
	50%	284° F. Maximum
6136	90%	392 F. Maximum
	End point	437 F. Maximum
	Minimum octane rating	59

Section IV.

All samples for tests shall be taken from delivery tanks of Refiner at Refiner's refinery hereinbefore described and tested by the Agency at Agency's laboratory or at such other point as may be mutually agreed upon. All tests shall be made in the presence of a representative of the Refiner should Refiner so desire.

Section V.

The intention of the parties respecting the subject matter of this section is as follows: To pay the Refiner for the gasoline delivered hereunder the amount (and no more than the amount), which he would have realized therefor net at the refinery if he sold all his gasoline in the regular course of business pursuant to the terms of this contract, subject to the provisions of paragraph 3 of this section. The terms of this section shall be interpreted and construed in accordance with this declaration of intention.

Upon receipt of invoice after delivery, the Agency shall advance to the refiner, subject to final determination as hereinafter provided, an amount which shall be computed at one cent less per gallon than Refiner's posted net wholesale delivered tank wagon price for any class of delivery after substracting deductions and/or allowances due, made, or allowed under contract or for quantity on the days of

delivery, but in no event higher than the posted delivered tank wagon market prices of operators of refineries for gasoline of not more than 64.9 octane generally pre-
6137 vailing in the same area at the same time, less one cent per gallon.

The price F. O. B. Refiner's refinery to be finally paid for gasoline shall be the lowest of the prices determined in accordance with the following three methods:

1. One cent per gallon less than Refiner's posted net delivered tank wagon price on date of delivery less any deductions or allowances due or earned under contracts or for quantity sales; provided that no deductions shall be made for quantity deliveries commonly called truck and trailer, where such quantity allowance is not more than one-fourth cent per gallon for quantities of not less than 5,000 gallons of the same quality and brand gasoline delivered to the same address in one calendar day. Such posted tank wagon price shall not be higher than the posted delivered tank wagon market price of gasoline of not more than 64.9 octane of operators of refineries generally prevailing at the same time in the same area in which delivery is taken.

2. The weighted average net back to the Refiner of all sales made during the same calendar month, calculated in the following manner:

Sales to bona fide distributors shall be computed at the prices which such distributor pays to Refiner.

Sales to other than bona fide distributors shall be computed at sales prices, i. e., the gross amount realized by the Refiner.

Sales to the Agency shall not be considered in any calculation.

From the total sales calculated as above shall be deducted the following:

6138 1. The freight paid by the Refiner to points beyond the free delivery area adjacent to refinery, which shall not be less than the regularly established rates of responsible carriers for similar transportation between the points involved.

2. One cent per gallon on all sales to other than distributors, excepting sales commonly called truck and trailer sales when such sales allow not more than one-fourth cent per gallon under full tank wagon price for deliveries of not less than 5,000 gallons of one quality and brand of gasoline delivered to the same person at the same address on one calendar day. On truck and trailer sales thus excepted, there shall be deducted three-fourths of one cent per gallon.

The remainder thus arrived at shall be divided by the total gallons sold and the resulting price per gallon shall be considered the per gallon net back to the Refiner.

Example:

Sales to Bona Fide Distributor		
100,000 gallons @ 10¢		$10,000.00
Sales to other than distributors		
200,000 gallons at 11¢		22,000.00
Total 300,000 gallons		$32,000.00
Less:		
Freight on 50,000 gallons sold beyond free delivery area	$ 500.00	
1¢ per gallon on all sales, excepting truck and trailer sales	1,000.00	
¾¢ per gallon on truck and trailer sales	750.00	2,250.00
6139 Total Sales Less Deduction— 300,000 gallons		$29,750.00

300,000) $29750.00 (9.90 cents
270000

275000
270000

3. The Refiner's lowest net back per gallon on any wholesale or other sale of Refiner's gasoline made to the trade during the month, subject to the following exceptions:

(a) Sales made under any contracts executed prior to August 19, 1933, which contracts cannot be cancelled under the terms thereof. The Agency and/or the Administrator shall have the right to call for and examine any such contracts.

(b) Sales made at the generally prevailing market price at the point at which delivery is made, like quality, quantity and class of sale considered.

(c) Sales made by distributors of Refiner's gasoline at less than the prevailing market price at the point at which delivery is made, like quality, quantity and class of sale considered, where Refiner within 24 hours of knowledge or notice of any such sale, discontinues deliveries to such distributor. Deliveries to such distributor may be resumed

only with the approval of the Administrator or his representative.

The term "prices", as used herein, includes taxes.

The word "posted", as used herein is defined to be an actual published price at which sales are being actually made in the open market and in regular course of business and free from collusion between buyer and seller, and
6140 shall not include false, collusive or fictitious nominal postings made or published for the purpose of requiring the Agency to purchase at a price higher than actual market.

In order to determine the amount of settlement and the price to be paid for the gasoline purchased, the Agency shall at the end of each month check up Refiners' sales and for this purpose shall have full access to the pertinent books, records, accounts, sales tickets, etc., of the Refiner. Refiner shall have the right to limit the examination to a certified public accountant chosen by the Agency and paid by the Refiner. The Agency agrees to pay to the Refiner monthly the full amount due said Refiner, subject to the advance payments hereinabove provided, and the Refiner agrees to pay to the Agency the amount due said Agency as determined in said accounting. In the event the Refiner fails to make payment therefor, the Agency shall deduct from the Refiner's advances due in the succeeding month the amount of said indebtedness. Refiner shall before noon of each Wednesday report to the Agency the quantity and price of gasoline sold to all buyers during the preceding week ending midnight Saturday.

Section VI.

Refiner warrants that Refiner has good title to the gasoline and other petroleum products and crude oil which will be delivered by Refiner to the Agency and Refiner agrees to indemnify and hold harmless the Agency from any loss, damage, or liability which the Agency may sustain by reason of any claim of ownership to any such gasoline and other petroleum products and crude oil by any person, firm, corporation, or State or Federal Government.

6141

Section VII.

Refiner agrees that he will not produce, purchase, transport, or run through his refinery hereinabove described, any crude oil which is produced in excess of the allotment

to the well or property from which the crude oil is produced under order of the Administrator and that he will not buy, or run through his refinery, any oil produced by any producer who is producing crude oil from the same property in excess of the allotment to the property from which the crude oil is produced under order of the Administrator.

The Refiner may accept written certificates from the Umpire appointed by the Administrator as to the amount of oil which he may purchase and/or transport from any well, property or producer, and any oil run through the refinery in compliance with such certificate and not exceeding the amount named therein from the well, property, or producer therein named; shall be deemed a full performance of the first paragraph of this section. Refiner shall, each month, report to the Agency and the Umpire the amount of oil taken by him from each property separately, together with the name of the operator of said property.

It is especially agreed that the Refiner, by agreeing to the provisions of this section and the provisions of Section X hereof and executing this agreement, shall not be held to have acquiesced in the legality or correctness of any allotment, order, rule or regulation, made by the Administrator, and that he shall not be estopped or otherwise precluded from contesting the allotment, order, rule or regulation, either on the law or on the facts involved in any proceeding before any court or before any adminis-
6142 trative body, which proceeding may be initiated either by him or by the Government, and it is especially understood that he reserves and asserts all his Constitutional rights.

Refiner for himself, and the Agency for itself and its members, agrees not to purchase or transport any gasoline or other petroleum products used in the manufacture of gasoline (except crude oil or natural gasoline which has been manufactured from gas produced from wells operated in compliance with the proration orders of the Administrator), manufactured or produced by any person other than the Agency, its members, or other refiners who have made agreements similar to this agreement with the Agency. This prohibition shall not be applicable to natural gasoline when the Agency, its members, and other refiners entering into similar agreements with the Agency fail to provide sufficient natural gasoline to the Refiner to enable him to manufacture his allotment of gasoline.

Section VIII.

In the event the Refiner shall have refining crude oil in excess of the amount required to manufacture the total amount of gasoline to be manufactured by Refiner the Agency agrees to purchase from the Refiner, and the Refiner agrees to sell to Agency, currently, all such excess refining crude oil at the posted price at the well, provided the total quantity of crude oil produced from the well or property involved does not exceed the quantity allocated thereto.

Section IX.

In the event the Refiner is short of refining crude oil necessary to manufacture the total amount of gasoline
6143 specified in Section X hereof the Agency will sell to Refiner so much refining crude oil as Refiner may require for such purpose at the posted field price at the well. Refiner, at his option, may either take delivery at the well or pay to the Agency its actual cost of delivery to Refiner's refinery in addition to said posted field price. In the event the oil is moved through gathering lines and/or trunk pipelines the charge in addition to said posted field price for the oil shall be the rates fixed by the Government for the purpose of determining pipe-line taxes.

It is further agreed that if at any time there is not available to the Agency and its members out of current allowable production in the State of California sufficient crude oil to supply the full current requirements of its members and at the same time supply to Refiner and other refiners who have signed with the Agency contracts similar to this the crude oil which Agency may be required under said contracts to furnish to them, then this contract may be terminated by Agency upon thirty days' notice.

In the event the Refiner is short of natural gasoline necessary to manufacture the total amount of gasoline specified in Section X hereof the Agency will, to the extent that it has natural gasoline available, sell to the Refiner so much natural gasoline as Refiner may require for such purpose at the prevailing market price for natural gasoline of the quality delivered, at the place of production thereof plus Agency's cost of handling and transportation for delivery to Refiner.

6144 **Section X.**

The Refiner, for himself, and the Agency, for itself and its members, agrees to conform to any order, rule, or regulation, made by or through the Administrator, or by agencies established by the Administrator, applicable to the manufacture and storage of gasoline. In no event, however, will the Refiner produce in any month more gasoline (including motor fuel and engine distillate) than is equal to .....% of the gasoline sold for consumption in the State of California during said month except for adjustments as hereinafter provided.

The expected consumption for the month will be estimated by the Agency and the Refiner notified thereof prior to the 25th day of the preceding month, and the Refiner shall regulate the amount of his production accordingly. As soon as the figures showing the State's actual consumption are available a proper adjustment of Refiner's allowable production will be made by the Agency and notice thereof given to the Refiner.

Section XI.

The Agency agrees that in addition to purchasing the gasoline and crude oil and providing crude oil for the Refiner, as hereinabove provided, it will post prices at which it will purchase from Refiner, if, as, and when offered, any marketable residuum, distillate, or kerosene currently produced by such Refiner.

Section XII.

The Agency hereby represents that it is authorized under written contract with its members to obligate its said members severally to the following stipulations and to the stipulations of Sections VII and XIII hereof which are
6145 intended to apply to each of said members, as well as to the Refiner; and each member of the Agency shall be bound hereby, as though each thereof had severally signed this contract and shall be included in the expression "the parties hereto":

(a) The parties hereto assume full responsibility for the distribution and sale of their respective gasolines, whether sold under their refinery brands or under the brands of distributors heretofore filed with the Agency, and whether or not acquired hereunder, and whether or

not manufactured from crude or other oil acquired hereunder, from the Refiner to the ultimate consumer and agree that in all sales of gasoline made by any of the parties hereto to a reseller, such party shall require the reseller to resell such gasoline at the wholesale or retail price, as the case may be, which may be authorized and posted by such party at the time and place of resale, and that such party will likewise require all wholesalers, distributors, peddlers, jobbers, brokers, agents, or any other person whomsoever, upon sale of gasoline made by them for resale to agree to require all resellers at the time of sale to them to agree to maintain, and cause to be maintained, such party's authorized posted wholesale and retail prices, respectively, effective at the time and place of resale. In case of sales to or through so-called distributors who do not fall within the definition of distributors in the Code of Fair Competition for the Petroleum Industry, such party shall require that such gasoline so sold be sold under its refinery brands or the authorized brands of such distributors listed with the Agency as provided by this agreement, and in its name, and that the gasoline shall be so invoiced on the delivery ticket. The posted retail
6146 price for each party hereto for gasoline of 64.9 octane rating or lower shall at all times be not less than three cents, inclusive of any rental and/or other credits, over the net price to retail resellers. Each and every party hereto agrees that it will forthwith at its own cost and expense cancel and terminate any and all existing agreements which would interfere with or prevent compliance with the terms of this agreement. For purposes of this sub-paragraph (a) gasoline acquired by any member from the Agency shall be treated as the gasoline of such member and not as the gasoline of the refiner or refiners selling the same to the Agency. Each party hereto, in establishing its authorized and posted prices according to trade classifications, shall clearly define its several classifications according to standards responsive to actual trade categories. No classification shall be made or difference in price posted which is not in accordance with generally established trade usage or which has no purpose other than to permit an evasion of the intent of this agreement. In the case of bids and sales to federal or state governments or departments or subdivisions thereof, such price differentials and provisions shall be permissible as may be consistent with the Code of Fair Competition for the Petroleum Industry and the orders of the Administrator on the subject. Gasoline made from crude oil or other petroleum product supplied by a

member of the Agency shall be considered, for the purpose of this agreement, as though the gasoline itself had been sold to the buyer by the supplier of the crude oil or other petroleum product from which it is made. All provisions of this paragraph (a) relating to price structure and posting thereof shall also apply to motor fuel and engine distillate.

6147 (b) No party hereto will convert any split pump account into a one hundred per cent account.

(c) No party hereto will give any additional commission or discount for two or more pumps at a split pump station over what is given for one pump.

(d) Gasoline of less than 64.9 octane rating manufactured by any agency member shall not be advertised by such member or anyone handling same in any way other than by signs posted at the place of sale thereof to the public, or on trucks transporting such gasoline.

(e) Any party to this agreement except the Agency who supplies any petroleum products to anybody not a party to this agreement shall require that any gasoline or motor fuel made from said petroleum products shall be sold, if sold for consumption within the territory described in paragraph (j) of this Section, at the same prices wholesale or retail as the supplying company sells its gasoline or motor fuel.

(f) Each party hereto shall file with the Agency a list of his distributors' brands. Only one party to this agreement may use a listed distributor's brand at any one time. Whenever a distributor, having a listed brand, purchases the gasoline to be sold under such listed brand, from a new supplier, the new supplier shall give notice thereof to the Agency and to the former supplier.

(g) The allowance for truck and trailer deliveries (as the term is used in Section V hereof) shall not exceed one-fourth cent per gallon.

(h) The Refiner for himself, and the Agency for itself and its members, agrees not to solicit or enter into any contract, during the term of this agreement, to take over or serve any retail or commercial account of another party on terms inconsistent with this agreement, which
6149 contract is to take effect at the expiration of this agreement.

6148 (i) The Refiner for himself, and the Agency for itself and its members, agrees that it will not deliver any gasoline or permit the delivery of any gasoline to any service station where the following conditions exist:

First: Where gasoline is sold which is manufactured

from crude oil produced in excess of the allotment to the well or property from which the crude oil is produced under order of the Administrator, or from crude oil which has been commingled with crude oil produced in excess of such order, or where the producer of the crude oil from which the gasoline is manufactured, or the refiner manufacturing the gasoline, fails to make reports of crude oil and refinery production to the properly constituted authorities; or

Second: Where gasoline is sold which has been manufactured by a refiner in excess of any order, rule, or regulation made by or through the Administrator or by agencies established by the Administrator applicable to the manufacture and storage of gasoline; or

Third: Where gasoline is sold which has been manufactured from crude oil withdrawn from storage without proper order permitting such withdrawal from storage.

(j) This agreement applies to and covers the States of California, Oregon, Arizona, and Nevada, and the western portion of the State of Washington outlined in red upon a map of said State, copies of which map have been filed with the Agency and the Administrator and are available, at the offices of the Agency, to all interested parties.

Section XIII.

Each party hereto agrees that it will not during a period of ninety (90) days from and after the effective date of this agreement, supply the tanks or serve any retail pump selling or handling branded products of any other party hereto, except, however, that the provisions of this paragraph shall not apply to any branded pump or pumps, the brands of which have been changed to those of new suppliers since April 1, 1934.

Each agency member agrees for itself and its distributors, jobbers, and brokers, and any other person whomsoever reselling its products, that neither it nor they will brand any unbranded pump or sell gasoline for resale through any unbranded pump during such ninety (90) day period. Provided, however, that there is not included in this provision any pump which it or they have served continuously for not less than sixty (60) days prior to April 12, 1934, under a valid written contract made and entered into prior to April 1, 1934, provided that any contracts affecting pumps in the area south of the Tehachapi shall have been filed with the Regional General Chairman on or before noon of April 14, 1934; and contracts affecting pumps in

other areas shall have been filed with said General Chairman before noon April 18, 1934. Neither shall this provision include any pump to which the Agency member was delivering directly and not through any distributor and/or other intermediary for sixty (60) days prior to April 12, 1934. Refiner for himself, and the Agency for itself and its members, agrees not to solicit or enter into any contract during said ninety (90) day period contrary to the
6150 provisions of this Section XIII, which contract is to take effect at the expiration of said ninety (90) day period.

Section XIV.

It is agreed by the parties hereto that this agreement is made pursuant to the provisions of the National Industrial Recovery Act and of the Code of Fair Competition for the Petroleum Industry, and for the purpose of stabilizing the industry and preventing unfair competition; that in case of breach of any of the terms of the contract a judgment for damages would be of no avail and that none of the parties hereto has an adequate remedy at law against the other; that the Administrator is interested in the full and punctual performance of this contract to protect the public interest and effect the stabilization of the industry, and that adequate relief in case of a breach of any of the provisions of this contract can be provided only by the remedies of injunction or specific performance granted by a court of equity.

Section XV.

As an additional remedy, and not in lieu of any remedy provided by law or by the provisions of this agreement, it is agreed that in the event of a violation of any of the provisions of this agreement by any person handling the products manufactured by any Agency member or Refiner, the aggrieved party shall promptly report such breach to the Administrator or any agent duly authorized by him who shall, as soon as practicable, review the matter and if deemed necessary hold, or cause to be held, a hearing with respect to such violation and determine whether the proper functioning of this agreement requires the suspension for a period of time of deliveries of motor
6151 fuel to the violator. In the event the Administrator, or any agent duly authorized by him, deems such suspension necessary he shall immediately notify all Refiners selling motor fuels in the locality or localities where the

violation has occurred to suspend or refrain from making deliveries of all classes of petroleum products to the offending party, distributor, jobber, wholesaler, or retailer, until further notice that such deliveries may be resumed. During the period of suspension the Refiner and the respective Agency members shall not deliver or permit to be delivered, their products to such offender.

Section XVI.

If any controversy arises as to the true intent and meaning of any term of this agreement the controversy shall be referred to the Administrator whose decision thereon shall be final.

Section XVII.

Title I of the National Industrial Recovery Act requires that certain provisions of Section 10 (b) of said Title shall be contained in each agreement approved, prescribed, or issued under said title. Said section is here set forth in full and made a part hereof as follows:

"The President may from time to time cancel or modify any order, approval, license, rule or regulation issued under this title and such agreement, Code of Fair Competition, or license approved, prescribed, or issued, under this title shall contain an express provision to that effect."

Section XVIII.

All notices hereunder from the Refiner to the Agency shall be addressed to it at .....
Los Angeles, California.

6152 All notices from the Agency to the Refiner shall be addressed to it at .....

Notices in writing deposited in the United States Post Office, postage prepaid and addressed to the foregoing addresses, shall be considered good and valid notice hereunder, effective from the date of deposit.

Section XIX.

Unless terminated in accordance with the provisions of Section 10 (b) of Title I of the National Industrial Recovery Act, or of Section IX hereof, this agreement shall continue in effect until June 15, 1935, or until the discontinuance, repeal, or invalidation of the National In-

dustrial Recovery Act, whichever event occurs first, provided, however, that this agreement may be terminated by either party hereto on thirty days' notice if the production of crude oil in the State of California exceeds the production allocated to said State by the Administrator by more than five per cent for two successive months.

Section XX.

This agreement shall not become effective unless the agreement of the members of the Pacific Coast Petroleum Agency, organizing such agency, which contains a general form of the agreement to be entered into with Refiners is approved by the Administrator, and until permitted by proceedings pursuant to the provisions of the order modifying the final decree made September 25, 1933, by the District Court of the United States for the Northern District of California, Southern Division, in the case of United States of America, Petitioner, *vs.* Standard Oil Company of California, et al., Defendants, numbered 2542-S In Equity, on the files of said Court, modi-
6153 fying the Final Decree made and entered in said Court in said cause on the 15th day of September, 1930.

Section XXI.

The provisions of this agreement shall bind the successors, assigns, lessees, and legal representatives of the parties hereto, including the members of the Agency; and if any party hereto shall be merged or consolidated with, or its business acquired by, another party hereto, or a refiner, party to a similar agreement, the party continuing the business shall succeed to and take over the benefits and assume the burdens of the party so merged or consolidated, or whose business is acquired.

In Witness Whereof, the parties hereto have caused this agreement to be executed in duplicate the day and year first above written.

.....

Refiner.

Pacific Coast Petroleum Agency,

By .....

President,

By .....

Secretary.

.....

Secretary of the Interior and Petroleum Administrator.

6154 **Agreement Supplemental to Pacific Coast Petroleum Agency Agreement**

6155 June 25, 1934.

Reprinted July 18, 1934.
Reprinted Nov. 27, 1934.

6156 This Agreement, made as of the ..... day of June, 1934, By And Among companies and persons signatory hereto, engaged in the Petroleum Industry on the Pacific Coast, and who have executed an agreement known as the Pacific Coast Petroleum Agency Agreement, which has been heretofore filed with Harold L. Ickes, Secretary of the Interior, Administrator of the Code of Fair Competition for the Petroleum Industry, And
Harold L. Ickes, as Petroleum Administrator;

Witnesseth:

1. Each of the parties hereto agrees to abide by and conform to the provisions of the Code of Fair Competition for the Petroleum Industry and the amendments thereto and the rules, regulations and orders made in pursuance thereof, so long as it or they remain in effect; provided, however, that nothing in this paragraph contained shall prevent any such party while so abiding and conforming from contesting in good faith before any court, board or official having competent jurisdiction over the same, the validity, meaning or effect of any provision thereof.

2. Each of the parties hereto agrees that he shall conduct his operations under the said Pacific Coast Petroleum Agency Agreement so as to eliminate unfair competitive practices, prevent monopolies or monopolistic practices, prevent the elimination or oppression of, or discrimination against, small enterprises, prevent unreasonable or inordinate prices to the public and generally to effectuate the purposes of the National Industrial Recovery Act.

6157 3. Each of the parties agrees that he shall from time to time and within twenty (20) days after notice of demand by letter or telegram from the Attorney General, report or cause to be reported to the Attorney General and to the Petroleum Administrator, under oath, such facts and things concerning the operations, activities and records of said Pacific Coast Petroleum Agency, and the operations, activities and records of the parties respectively, and each of them, relating to said Pacific Coast Pe-

troleum Agency Agreement as may be required in such notice or demand.

4. Each of the parties agrees that without limiting or abridging the full force and effect of Section 12(a) of that certain Agreement entered into between certain Refiners and the Pacific Coast Petroleum Agency, known as the Refiners' Agreement, said section shall be construed as including the agreement of each of the parties not to permit gasoline, engine distillate or motor fuel, sold by it, or marketed by it indirectly, to be resold, at wholesale or retail, except for the same price for the identical product as such party manufacturing the same shall post for direct sale, whether such product be sold or resold without brand or under the same brand or under a different brand. Such posted price shall be an actual published price at which sales are being actually made in the open market and in regular course of business and free from collusion between buyer and seller, and shall not include false, collusive or fictitious nominal posting made or published for the purpose of defeating the foregoing provisions or the provisions of said Section 12(a).

6158 5. Sections 13 and 14 of the said Pacific Coast Petroleum Agency Agreement are hereby incorporated herein and made a part hereof as though fully set forth herein.

6. This agreement may be executed in any number of counterparts.

In Witness Whereof, the parties hereto have caused this agreement to be executed the day and year first above written.

Associated Oil Company

By _____
President

And _____
Secretary

General Petroleum Corporation of California

By _____
President

And _____
Secretary

_____
As Receiver of Richfield Oil Company

6159 Shell Oil Compny

By _____
President

And _____
Secretary

Standard Oil Company of California

By _____
President

And _____
Secretary

The Texas Company (California)

By _____
President

And _____
Secretary

6160 Union Oil Company of California

By _____
President

And _____
Secretary

Rio Grande Oil Company

By _____
President

And _____
Secretary

Gilmore Oil Company

By _____
President

And _____
Secretary

6161 Seaside Oil Company

By _____
President

And _____
Secretary

Guardian Oil Company

By _____
President

And _____
Secretary

Signal Oil Company

By _____
President

And _____
Secretary

6162 Rocket Oil Company

By _____
President

And _____
Secretary

6163

Secretary of the Interior and Administrator of the Code of Fair Competition for the Petroleum Industry.

6164 **Agreement Supplemental to Refiners' Agreement**

6165 This Agreement Made this_____day of June, 1934, By and Between_____

hereinafter called Refiner (who has executed an agreement known as Refiners' Agreement with Pacific Coast Petroleum Agency and Harold L. Ickes, Secretary of the Interior and Administrator of the Code of Fair Competition for the Petroleum Industry); and

Harold L. Ickes, as Petroleum Administrator.

Witnesseth:

1. Each of the parties hereto agrees to abide by and conform to the provisions of the Code of Fair Competition for the Petroleum Industry and the amendments thereto and the rules, regulations and orders made in pursuance thereof, so long as it or they remain in effect; provided, however, that nothing in this paragraph contained shall prevent any such party while so abiding and conforming from contesting in good faith before any court, board or official having competent jurisdiction over the same, the validity, meaning or effect of any provision thereof.

2. Each of the parties hereto agrees that he shall conduct his operations under the said Refiners' Agreement so as to eliminate unfair competitive practices, prevent monopolies or monopolistic practices, prevent the elimination or oppression of, or discrimination against, small enter-
6166 prises, prevent unreasonable or inordinate prices to the public and generally to effectuate the purposes of the National Industrial Recovery Act.

3. Each of the parties agrees that he shall from time to time and within twenty (20) days after notice of demand by letter or telegram from the Attorney General, report or cause to be reported to the Attorney General and to the Petroleum Administrator under oath, such facts and things concerning the operation, activities and records of said Pacific Coast Petroleum Agency, insofar as they concern refiner, and the operations, activities and records of the parties respectively, and each of them, relating to said Refiners' Agreement as may be required in such notice or demand.

4. Each of the parties agrees without limiting or abridging the full force and effect of Section 12(a) of said Refiners' Agreement, said section shall be construed as including the agreement of each of the parties not to permit gaso-

line, engine distillate or motor fuel, sold by it, or marketed by it indirectly, to be resold, at wholesale or retail, except for the same price for the identical product as such party manufacturing the same shall post for direct sale, whether such product be sold or resold without brand or under the same brand or under a different brand. Such posted price shall be an actual published price at which sales are being actually made in the open market and in regular course
6167 of business and free from collusion between buyer and seller, and shall not include false. collusive or fictitious nominal posting made or published for the purpose of defeating the foregoing provisions or the provisions of said Section 12(a).

5. Section 17 of said Refiners' Agreement is hereby incorporated herein and made a part hereof as though fully set forth herein.

In Witness Whereof, the parties hereto have caused this agreement to be executed the day and year first above written.

.....

Refiner.

.....

.....

Secretary of the Interior and Administrator of the Code of Fair Competition for the Petroleum Industry.

6168 This Agreement, made this.....day of May, 1934, by and between.....

.....

.....,

hereinafter called the Refiner, Pacific Coast Petroleum Agency, an unincorporated association, hereinafter called the Agency, and Harold L. Ickes, Secretary of the Interior and Administrator of the Code of Fair Competition for the Petroleum Industry, hereinafter called the Administrator,

Witnesseth:

Whereas, the Refiner is now manufacturing gasoline at Refiner's refinery in the County of....., State of California, at a location more particularly described as follows:

and is desirous of selling to the Agency gasoline, which Refiner may manufacture in excess of Refiner's current requirements, and the Agency is willing to purchase the same

to the extent and on the terms and conditions hereinafter stated,

6169 Now, Therefore, the parties hereto agree as follows:

Section I.

The Refiner hereby sells and agrees to deliver to the Agency and Agency agrees to purchase and receive at the price and upon the terms and conditions hereinafter set forth all of the gasoline which may be manufactured by the Refiner at Refiner's said refinery which the Refiner fails to market under his own refinery brands, or under the brands heretofore filed with the Agency, in an orderly way and on the terms and conditions hereinafter stipulated under which the Refiner is obligated to sell his said gasoline.

Section II.

All deliveries made hereunder are to be made by the Refiner into the Agency's tank cars or tank trucks, or by pipe lines, at the above described refinery. Quantities of delivery shall be determined by the parties at the time and place of delivery, in the usual and customary manner corrected to 60° Fahrenheit. It is contemplated that deliveries shall be made as nearly as practicable as and when the gasoline is manufactured, and, unless with the special permission of the Agency, shall not be delivered more than thirty (30) days after the time of manufacture.

Section III.

The gasoline to be purchased and delivered hereunder shall be of the same quality as is manufactured by the Refiner and regularly sold in his usual course of business, but in no event shall it be inferior to the following vaporization range and octane rating:

10%	122° to 176° F. Maximum
50%	284° F. Maximum
6170 90%	392 F. Maximum
End point	437 F. Maximum
Minimum octane rating	59

Section IV.

All samples for tests shall be taken from delivery tanks of Refiner at Refiner's refinery hereinbefore described and tested by the Agency at Agency's laboratory or at such other point as may be mutually agreed upon. All tests

shall be made in the presence of a representative of the Refiner should Refiner so desire.

Section V.

The intention of the parties respecting the subject matter of this section is as follows: To pay the Refiner for the gasoline delivered hereunder the amount (and no more than the amount), which he would have realized therefor net at the refinery if he sold all his gasoline in the regular course of business pursuant to the terms of this contract, subject to the provisions of paragraph 3 of this section. The terms of this section shall be interpreted and construed in accordance with this declaration of intention.

Upon receipt of invoice after delivery, the Agency shall advance to the refiner, subject to final determination as hereinafter provided, an amount which shall be computed at one cent less per gallon than Refiner's posted net wholesale delivered tank wagon price for any class of delivery after subtracting deductions and/or allowances due, made, or allowed under contract or for quantity on the days of delivery, but in no event higher than the posted delivered tank wagon market prices of operators of refineries
6171 for gasoline of not more than 64.9 octane generally prevailing in the same area at the same time, less one cent per gallon.

The price F. O. B. Refiner's refinery to be finally paid for gasoline shall be the lowest of the prices determined in accordance with the following three methods:

1. One cent per gallon less than Refiner's posted net delivered tank wagon price on date of delivery less any deductions or allowances due or earned under contracts or for quantity sales; provided that no deductions shall be made for quantity deliveries commonly called truck and trailer, where such quantity allowance is not more than one-fourth cent per gallon for quantities of not less than 5,000 gallons of the same quality and brand gasoline delivered to the same address in one calendar day. Such posted tank wagon price shall not be higher than the posted delivered tank wagon market price of gasoline of not more than 64.9 octane of operators of refineries generally prevailing at the same time in the same area in which delivery is taken.

2. The weighted average net back to the Refiner of all sales made during the same calendar month, calculated in the following manner:

Sales to bona fide distributors shall be computed at the prices which such distributor pays to Refiner.

Sales to other than bona fide distributors shall be computed at sales prices, i. e., the gross amount realized by the Refiner.

Sales to the Agency shall not be considered in any calculation.

From the total sales calculated as above shall be deducted the following:

6172 1. The freight paid by the Refiner to points beyond the free delivery area adjacent to refinery, which shall not be less than the regularly established rates of responsible carriers for similar transportation between the points involved.

2. One cent per gallon on all sales to other than distributors, excepting sales commonly called truck and trailer sales when such sales allow not more than one-fourth cent per gallon under full tank wagon price for deliveries of not less than 5,000 gallons of one quality and brand of gasoline delivered to the same person at the same address on one calendar day. On truck and trailer sales thus excepted, there shall be deducted three-fourths of one cent per gallon.

The remainder thus arrived at shall be divided by the total gallons sold and the resulting price per gallon shall be considered the per gallon net back to the Refiner.

Example:

Sales to Bona Fide Distributor		
100,000 gallons @ 10¢		$10,000.00
Sales to other than distributors		
200,000 gallons at 11¢		22,000.00
Total 300,000 gallons		$32,000.00
Less:		
Freight on 50,000 gallons sold beyond free delivery area	$ 500.00	
1¢ per gallon on all sales, excepting truck and trailer sales	1,000.00	
¾¢ per gallon on truck and trailer sales	750.00	2,250.00

6173 Total Sales Less Deduction—

300,000 gallons $29,750.00

300,000) $29750.00 (9.90 cents

270000

275000

3. The Refiner's lowest net back per gallon on any wholesale or other sale of Refiner's gasoline made to the trade during the month, subject to the following exceptions:

(a) Sales made under any contracts executed prior to August 19, 1933, which contracts cannot be cancelled under the terms thereof. The Agency and/or the Administrator shall have the right to call for and examine any such contracts.

(b) Sales made at the generally prevailing market price at the point at which delivery is made, like quality, quantity and class of sale considered.

(c) Sales made by distributors of Refiner's gasoline at less than the prevailing market price at the point at which delivery is made, like quality, quantity and class of sale considered, where Refiner within 24 hours of knowledge or notice of any such sale, discontinues deliveries to such distributor. Deliveries to such distributor may be resumed only with the approval of the Administrator or his representative.

The term "prices", as used herein, includes taxes.

The word "posted", as used herein is defined to be an actual published price at which sales are being actually made in the open market and in regular course of business and free from collusion between buyer and seller, and
6174 shall not include false, collusive or fictitious nominal postings made or published for the purpose of requiring the Agency to purchase at a price higher than actual market.

In order to determine the amount of settlement and the price to be paid for the gasoline purchased, the Agency shall at the end of each month check up Refiner's sales and for this purpose shall have full access to the pertinent books, records, accounts, sales tickets, etc., of the Refiner. Refiner shall have the right to limit the examination to a certified public accountant chosen by the Agency and paid by the Refiner. The Agency agrees to pay to the Refiner monthly the full amount due said Refiner, subject to the advance payments hereinabove provided, and the Refiner agrees to pay to the Agency the amount due said Agency as determined in said accounting. In the event the Refiner fails to make payment therefor, the Agency shall deduct from the Refiner's advances due in the succeeding month the amount of said indebtedness. Refiner shall before noon of each Wednesday report to the Agency the quantity and price of gasoline sold to all buyers during the preceding week ending midnight Saturday.

Section VI.

Refiner warrants that Refiner has good title to the gasoline and other petroleum products and crude oil which will be delivered by Refiner to the Agency and Refiner agrees to indemnify and hold harmless the Agency from any loss, damage, or liability which the Agency may sustain by reason of any claim of ownership to any such gasoline and other petroleum products and crude oil by any person, firm, corporation, or State or Federal Government.

6175 Section VII.

Refiner agrees that he will not produce, purchase, transport, or run through his refinery hereinabove described, any crude oil which is produced in excess of the allotment to the well or property from which the crude oil is produced under order of the Administrator and that he will not buy, or run through his refinery, any oil produced by any producer who is producing crude oil from the same property in excess of the allotment to the property from which the crude oil is produced under order of the Administrator.

The Refiner may accept written certificates from the Umpire appointed by the Administrator as to the amount of oil which he may purchase and/or transport from any well, property, or producer, and any oil run through the refinery in compliance with such certificate and not exceeding the amount named therein from the well, property or producer therein named, shall be deemed a full performance of the first paragraph of this section. Refiner shall, each month, report to the Agency and the Umpire the amount of oil taken by him from each property separately, together with the name of the operator of said property.

It is especially agreed that the Refiner, by agreeing to the provisions of this section and the provisions of Section X hereof and executing this agreement, shall not be held to have acquiesced in the legality or correctness of any allotment, order, rule or regulation, made by the Administrator, and that he shall not be estopped or otherwise precluded from contesting the allotment, order, rule or regulation, either on the law or on the facts involved in any proceeding before any court or before any
6176 administrative body, which proceeding may be initiated either by him or by the Government, and it is

especially understood that he reserves and asserts all his Constitutional rights.

Refiner for himself, and the Agency for itself and its members, agrees not to purchase or transport any gasoline or other petroleum products used in the manufacture of gasoline (except crude oil or natural gasoline which has been manufactured from gas produced from wells operated in compliance with the proration orders of the Administrator), manufactured or produced by any person other than the Agency, its members, or other refiners who have made agreements similar to this agreement with the Agency. This prohibition shall not be applicable to natural gasoline when the Agency, its members, and other refiners entering into similar agreements with the Agency fail to provide sufficient natural gasoline to the Refiner to enable him to manufacture his allotment of gasoline.

Section VIII.

In the event the Refiner shall have refining crude oil in excess of the amount required to manufacture the total amount of gasoline to be manufactured by Refiner the Agency agrees to purchase from the Refiner, and the Refiner agrees to sell to Agency, currently, all such excess refining crude oil at the posted price at the well, provided the total quantity of crude oil produced from the well or property involved does not exceed the quantity allocated thereto.

Section IX.

In the event the Refiner is short of refining crude oil necessary to manufacture the total amount of gaso-
6177 line specified in Section X hereof the Agency will sell to Refiner so much refining crude oil as Refiner may require for such purpose at the posted field price at the well. Refiner, at his option, may either take delivery at the well or pay to the Agency its actual cost of delivery to Refiner's refinery in addition to said posted field price. In the event the oil is moved through gathering lines and/or trunk pipelines the charge in addition to said posted field price for the oil shall be the rates fixed by the Government for the purpose of determining pipeline taxes.

It is further agreed that if at any time there is not available to the Agency and its members out of current allowable production in the State of California sufficient

crude oil to supply the full current requirements of its members and at the same time supply to Refiner and other refiners who have signed with the Agency contracts similar to this the crude oil which Agency may be required under said contracts to furnish to them, then this contract may be terminated by Agency upon thirty days' notice.

In the event the Refiner is short of natural gasoline necessary to manufacture the total amount of gasoline specified in Section X hereof the Agency will, to the extent that it has natural gasoline available, sell to the Refiner so much natural gasoline as Refiner may require for such purpose at the prevailing market price for natural gasoline of the quality delivered, at the place of production thereof plus Agency's cost of handling and transportation for delivery to Refiner.

6178

Section X.

The Refiner, for himself, and the Agency, for itself and its members, agrees to conform to any order, rule, or regulation, made by or through the Administrator, or by agencies established by the Administrator, applicable to the manufacture and storage of gasoline. In no event, however, will the Refiner produce in any month more gasoline (including motor fuel and engine distillate) than is equal to .....% of the gasoline sold for consumption in the State of California during said month except for adjustments as hereinafter provided.

The expected consumption for the month will be estimated by the Agency and the Refiner notified thereof prior to the 25th day of the preceding month, and the Refiner shall regulate the amount of his production accordingly. As soon as the figures showing the State's actual consumption are available a proper adjustment of Refiner's allowable production will be made by the Agency and notice thereof given to the Refiner.

Section XI.

The Agency agrees that in addition to purchasing the gasoline and crude oil and providing crude oil for the Refiner, as hereinabove provided, it will post prices at which it will purchase from Refiner, if, as, and when offered, any marketable residuum, distillate, or kerosene currently produced by such Refiner.

Section XII.

The Agency hereby represents that it is authorized under written contract with its members to obligate its said members severally to the following stipulations and to the stipulations of Sections VII and XIII hereof
6179 which are intended to apply to each of said members, as well as to the Refiner; and each member of the Agency shall be bound hereby, as though each thereof had severally signed this contract and shall be included in the expression "the parties hereto":

(a) The parties hereto assume full responsibility for the distribution and sale of their respective gasolines, whether sold under their refinery brands or under the brands of distributors heretofore filed with the Agency, and whether or not acquired hereunder, and whether or not manufactured from crude or other oil acquired hereunder, from the Refiner to the ultimate consumer and agree that in all sales of gasoline made by any of the parties hereto to a reseller, such party shall require the reseller to resell such gasoline at the wholesale or retail price, as the case may be, which may be authorized and posted by such party at the time and place of resale, and that such party will likewise require all wholesalers, distributors, peddlers, jobbers, brokers, agents, or any other person whomsoever, upon sale of gasoline made by them for resale to agree to require all resellers at the time of sale to them to agree to maintain, and cause to be maintained, such party's authorized posted wholesale and retail prices, respectively, effective at the time and place of resale. In case of sales to or through so-called distributors who do not fall within the definition of distributors in the Code of Fair Competition for the Petroleum Industry, such party shall require that such gasoline so sold, be sold under its refinery brands or the authorized brands of such distributors listed with the Agency as provided by this agreement, and in its name, and that the gasoline shall be so invoiced on the delivery
6180 ticket. The posted retail price for each party hereto for gasoline of 64.9 octane rating or lower shall at all times be not less than three cents, inclusive of any rental and/or other credits, over the net price to retail resellers. Each and every party hereto agrees that it will forthwith at its own cost and expense cancel and terminate any and all existing agreements which would interfere with or prevent compliance with the terms of this

agreement. For purposes of this sub-paragraph (a) gasoline acquired by any member from the Agency shall be treated as the gasoline of such member and not as the gasoline of the refiner or refiners selling the same to the Agency. Each party hereto, in establishing its authorized and posted prices according to trade classifications, shall clearly define its several classifications according to standards responsive to actual trade categories. No classification shall be made or difference in price posted which is not in accordance with generally established trade usage or which has no purpose other than to permit an evasion of the intent of this agreement. In the case of bids and sales to federal or state governments or departments or subdivisions thereof, such price differentials and provisions shall be permissible as may be consistent with the Code of Fair Competition for the Petroleum Industry and the orders of the Administrator on the subject. Gasoline made from crude oil or other petroleum product supplied by a member of the Agency shall be considered, for the purpose of this agreement, as though the gasoline itself had been sold to the buyer by the supplier of the crude oil or other petroleum product from which it is made. All provisions of this paragraph (a) relating to price structure and posting thereof shall also apply to motor fuel and engine distillate.

6181 (b) No party hereto will convert any split pump account into a one hundred per cent account.

(c) No party hereto will give any additional commission or discount for two or more pumps at a split pump station over what is given for one pump.

(d) Gasoline of less than 64.9 octane rating manufactured by any agency member shall not be advertised by such member or anyone handling same in any way other than by signs posted at the place of sale thereof to the public, or on trucks transporting such gasoline.

(e) Any party to this agreement except the Agency who supplies any petroleum products to anybody not a party to this agreement shall require that any gasoline or motor fuel made from said petroleum products shall be sold, if sold for consumption within Region No. 6, at the same prices wholesale or retail as the supplying company sells its gasoline or motor fuel.

(f) Each party hereto shall file with the Agency a list of his distributors' brands. Only one party to this agreement may use a listed distributor's brand at any one time. Whenever a distributor, having a listed brand, purchases the gasoline to be sold under such listed brand,

from a new supplier, the new supplier shall give notice thereof to the Agency and to the former supplier.

(g) The allowance for truck and trailer deliveries (as the term is used in Section V hereof) shall not exceed one-fourth cent per gallon.

(h) The Refiner for himself, and the Agency for itself and its members, agrees not to solicit or enter into any contract, during the term of this agreement, to take over or serve any retail or commercial account of another party on terms inconsistent with this agreement, which
6182 contract is to take effect at the expiration of this agreement.

Section XIII.

Each party hereto agrees that it will not during a period of ninety (90) days from and after the effective date of this agreement, supply the tanks or serve any retail pump selling or handling branded products of any other party hereto, except, however, that the provisions of this paragraph shall not apply to any branded pump or pumps, the brands of which have been changed to those of new suppliers since April 1, 1934.

Each agency member agrees for itself and its distributors, jobbers, and brokers, and any other person whomsoever reselling its products, that neither it nor they will brand any unbranded pump or sell gasoline for resale through any unbranded pump during such ninety (90) day period. Provided, however, that there is not included in this provision any pump which it or they have served continuously for not less than sixty (60) days prior to April 12, 1934, under a valid written contract made and entered into prior to April 1, 1934, provided that any contracts affecting pumps in the area south of the Tehachapi shall have been filed with the Regional General Chairman on or before noon of April 14, 1934; and contracts affecting pumps in other areas shall have been filed with said General Chairman before noon April 18, 1934. Neither shall this provision include any pump to which the Agency member was delivering directly and not through any distributor and/or other intermediary for sixty (60) days prior to April 12, 1934. Refiner for himself, and the Agency, for itself and its members, agrees not to solicit or enter into any contract during said
6183 ninety (90) day period contrary to the provisions of this Section XIII, which contract is to take effect at the expiration of said ninety (90) day period.

Section XIV.

It is agreed by the parties hereto that this agreement is made pursuant to the provisions of the National Industrial Recovery Act and of the Code of Fair Competition for the Petroleum Industry, and for the purpose of stabilizing the industry and preventing unfair competition; that in case of breach of any of the terms of the contract a judgment for damages would be of no avail and that none of the parties hereto has an adequate remedy at law against the other; that the Administrator is interested in the full and punctual performance of this contract to protect the public interest and effect the stabilization of the industry, and that adequate relief in case of a breach of any of the provisions of this contract can be provided only by the remedies of injunction or specific performance granted by a court of equity.

Section XV.

As an additional remedy, and not in lieu of any remedy provided by law or by the provisions of this agreement, it is agreed that in the event that of a violation of any of the provisions of this agreement by any person handling the products manufactured by any Agency member or Refiner, the aggrieved party shall promptly report such breach to the Administrator or any agent duly authorized by him who shall, as soon as practicable, review the matter and if deemed necessary hold, or cause to be held, a hearing with respect to such violation and determine whether the proper functioning of this agreement requires the suspension for a period of time of deliveries of motor fuel 6184 to the violator. In the event the Administrator, or any agent duly authorized by him, deems such suspension necessary he shall immediately notify all Refiners selling motor fuels in the locality or localities where the violation has occurred to suspend or refrain from making deliveries of all classes of petroleum products to the offending party, distributor, jobber, wholesaler, or retailer, until further notice that such deliveries may be resumed. During the period of suspension the Refiner and the respective Agency members shall not deliver or permit to be delivered, their products to such offender.

Section XVI.

If any controversy arises as to the true intent and meaning of any term of this agreement the controversy shall be referred to the Administrator whose decision thereon shall be final.

Section XVII.

Title I of the National Industrial Recovery Act requires that certain provisions of Section 10 (b) of said Title shall be contained in each agreement approved, prescribed, or issued under said title. Said section is here set forth in full and made a part hereof as follows:

"The President may from time to time cancel or modify any order, approval, license, rule or regulation issued under this title and such agreement, Code of Fair Competition, or license approved, prescribed, or issued, under this title shall contain an express provision to that effect."

Section XVIII.

All notices hereunder from the Refiner to the Agency shall be addressed to it at .....
Los Angeles, California.
6185 All notices from the Agency to the Refiner shall be addressed to it at .....
Notices in writing deposited in the United States Post Office, postage prepaid and addressed to the foregoing addresses, shall be considered good and valid notice hereunder, effective from the date of deposit.

Section XIX.

Unless terminated in accordance with the provisions of Section 10 (b) of Title I of the National Industrial Recovery Act, or of Section IX hereof, this agreement shall continue in effect until June 15, 1935, or until the discontinuance, repeal, or invalidation of the National Industrial Recovery Act, whichever event occurs first, provided, however, that this agreement may be terminated by either party hereto on thirty days' notice if the production of crude oil in the State of California exceeds the production allocated to said State by the Administrator by more than five per cent for two successive months.

Section XX.

This agreement shall not become effective unless the agreement of the members of the Pacific Coast Petroleum Agency, organizing such agency, which contains a general form of the agreement to be entered into with Refiners is approved by the Administrator, and until permitted by proceedings pursuant to the provisions of the order modifying the final decree made September 25, 1933, by the District Court of the United States for the Northern District of California, Southern Division, in the case of United States of America, Petitioner, *vs.* Standard Oil Company of California, *et al.*, Defendants, numbered 2542-S In Equity, on the files of said Court, modifying 6186 the Final Decree made and entered in said Court in said cause on the 15th day of September, 1930.

Section XXI.

The provisions of this agreement shall bind the successors, assigns, lessees, and legal representatives of the parties hereto, including the members of the Agency; and if any party hereto shall be merged or consolidated with, or its business acquired by, another party hereto, or a refiner, party to a similar agreement, the party continuing the business shall succeed to and take over the benefits and assume the burdens of the party so merged or consolidated, or whose business is acquired.

In Witness Whereof, the parties hereto have caused this agreement to be executed in duplicate the day and year first above written.

.....

Refiner.

Pacific Coast Petroleum Agency,

By.....

President.

By.....

Secretary.

.....

Secretary of the Interior and Petroleum Administrator.

6187 **DEFENSE EXHIBIT NO. 1030.**

For Identification.

(Certified by the Department of the Interior to be copy of document on file in that Department.)

6188 **DEPARTMENT OF THE INTERIOR**
Petroleum Administrative Board
Washington

March 22, 1935.

Memorandum for the Administrator:

Re—Report of Petroleum Code Survey Committee on Small Enterprises.

The report of the Committee is a searching and useful document. It shows a considerable amount of work and thought, and the Committee appears to have received numerous complaints and criticisms. The report consists not only of a discussion and analysis of the operation of the Code upon small enterprises but makes definite recommendations.

Production:

The Committee states that no permanent benefits can be obtained under the Code without a permanent assured effective balance of crude oil supply and demand, nor can stability and conservation be achieved without such balance. It states that uncertainty of control has been detrimental, that the production allocations set by the Federal agency have been too large, that more effective means are required to secure individual compliance with allocations, that the allocations within the States have not always been such as to promote the conservation of petroleum and to prevent physical and economic waste, that imports have exceeded Code requirements, and that hot oil, excess imports, excess production of crude oil and gasoline have prevented a definite assured continuous balance and have from time to time resulted in excess supply. The Committee recommends the accomplishment of an effective and permanent balance of supply with demand.

In connection with production, the Committee also reviews the minimum wage rates and maximum hour provisions applicable to stripper or sub-marginal properties and states that these stripper or sub-marginal properties should be relieved from the minimum wage and maximum hour provisions of the code.

Further, in connection with production, the Committee finds that the rig building contractors have suffered severely from the wage provisions of the Code and recommends that rig building operations be defined, labor engaged therein classified, and for such different classifications there be established minimum wages bearing a more proper relationship to wages prevailing in the industry.

6189 Refining:

This part of the report is very critical of the operation of the Code on small enterprises, that is, the non-integrated refiner who has had to pay the stabilized price for crude but who has been obliged to sell his products on an unstable market, out of parity with the price of crude. The thesis, as it were, of this portion of the report is that while the integrated company fixes the prices of crude at which the non-integrated refiner must buy, the integrated company with considerable low cost flush production does not itself have to pay the posted price, but in effect obtains its crude at a cost lower than the posted price.

The report points out that the costs of refinery operations have increased due to increase in labor, fuel and metal costs; that practically every refinery east of the Rockies is operating at a loss (citing instances and quoting figures), that it is evident that the prices of crude oil and of refined products have not been on a parity, and that this fact, with the increased operating costs under the Code, "has put the non-integrated refiner in an impossible position". The following is quoted from the report: (P. 30)

"It is our opinion that most of the large oil companies which post prices for crude oil in the principal fields have been well aware of the fact that crude oil has been too high in relation to the prices of refined products, but that since in most instances they themselves have not suffered seriously as a result of the abnormal situation—and in certain cases have profited greatly—they have not been inclined to cut the price of crude oil and risk the chance of administrative disfavor as well as the possibility of adverse legislative penalties. The result is that the refining branch of the industry has been obliged to absorb the difference between the prevailing posted crude oil prices and those prices which, as indicated by historical experience, should have prevailed."

After a very analytical discussion of the plight of the non-integrated refiner, the Committee recommends: (P. 31)

"Immediate relief is necessary if non-integrated refineries are not to be eliminated; it can come in only two forms.

6190 1. An immediate and sustained increase in tank-car and retail gasoline prices to a parity with present crude prices, or

2. A reduction in the posted prices of crude oil to a parity with gasoline.

"We agree with the thought prevalent in the production branch of the Industry—that it would be more desirable for the solution to come from an increase in gasoline prices instead of a reduction in crude, but if it cannot be done one way it should be done the other way.

"We favor making one more effort at raising gasoline prices. Refiners, of course, will point out that almost continuously over the past year efforts have been directed toward that end with negligible results. But some improvement in the basic factors of the situation may have been accomplished, and possibly only the impetus of concerted buying is needed to obtain a decided change for the better. Interstate shipments of hot oil and its products apparently are being brought under control and if the oil states enforce proper allowables there should be an improvement in the supply side of the picture. We know of nothing, apart from continued improvement in crude production control, which would be so helpful to the tank-car price of gasoline at this time as the substantial buying of distress gasoline by major companies. We understand a program of this sort is being considered by the Industry now in connection with a broad stabilization program. We therefore urge that the Administrator give it his approval and active support."

(P. 32)

"If, however, gasoline prices do not advance to an approximate parity with crude prices by an early date, within thirty days or thereabouts, or if they do not continue in such parity thereafter, then we recommend an immediate reduction in the price of crude oil to a parity with refined products. On the basis of prices as of this date a reduction of about 20¢ a barrel would be required to bring crude oil and gasoline prices into parity on the basis of the ratio of 18.5 to 1 as set forth in Section 6 of Article III of the Code."

6191 Marketing:

The Committee states that many existing difficulties and hardships in connection with marketing operations

cannot be related directly to the Code, such as, the increase in service stations, complaints concerning margins allowed by supplying companies to jobbers and dealers, price differentials between branded and unbranded gasoline, etc.

After setting forth the nature of the complaints under Marketing (PP. 34-5), the Committee analyzes these complaints and recommends:

1. Reinstatement of commercial discount type of contract regulating discounts for commercial consumers, with changes suggested by Committee on P. 40 of its report:
2. That price fixing is not a solution;
3. That while price wars cannot be entirely avoided they can be minimized;
4. That large companies file with the proper stabilization committees the formulae by which they determine their normal price levels in different areas, together with a statement of the reasons for any deviation; and that such information be also filed by their competitors;
5. That to discourage further building of gasoline service stations, power be given to marketers to enter into compacts, subject to approval of the Administrator, whereby such building would be restricted or discontinued.

General:

The Committee finds:

1. That transportation of crude oil is not adversely affected by the Code;
2. That authority be given to refiners to enter into agreements, subject to approval of the Administrator, to restrict voluntarily their gasoline productions allocated to them under the refinery provisions of the Code, and to transfer to smaller companies all or any part of their production thus curtailed;

6192 3. That in order to afford smaller companies the same advance information concerning changes in Code interpretations, rules, policies, etc. now enjoyed by larger companies with representation on the principal committees, the meetings of the Planning and Coordination Committee and the principal committees be open to the trade press;

4. That the present Code organization with its number of local, state, regional and national committees and subcommittees, should be simplified and more adequate representation in each branch of the industry be granted to small enterprises;

5. The Committee finds that small enterprises suffered from enforcement failure of certain provisions of the Code, which are apparently unenforceable because of doubtful legality or because of the nature of the provisions; and

that the Code should be redrafted so that such provisions are either dropped or segregated into a separate section, adherence to which would be voluntary.

It is not the purpose of this memorandum to criticize or attempt to answer any of the findings or recommendations of the Committee; although the current improvement in tank car price and the present fairly stabilized retail market is affording relief to some extent to the non-integrated refiner who, the report points out, has suffered most. In our opinion the report should be released immediately, and although we believe that it should not be accompanied by defense made by the Petroleum Administration against the positions taken by the Small Enterprise Committee, there are a number of things recommended which it would be well to do something about. Remembering that the Committee was appointed to do the very thing that it has done, namely, point out the effect of the Code on small enterprises, the question now is whether action in accordance with the report, where action is recommended, should be taken on the basis of this report without affording other elements in the industry an opportunity to be consulted. This meets with the following suggestion to you of the Board:

We believe success in Code administration, assuming that it is to continue, requires that some of the recommendations made should be adopted; e. g., we have encouraged stabilization efforts designed at this time to aid the independent refiner, and we have also recommended to the Planning and Coordination Committee the reinstate-
6193 ment of the commercial discount contracts. We have also had before us for some weeks the working out of a plan which would afford some basis for making Rules 4 and 6 more effective. These Rules have been the source of difficulty and division of opinion as to what can be done about them. The successful operation of the Code also seems now to require a new effort to obtain cooperation on the part of the industry. The making of this report to you and the desirability of hearing from other elements in the industry as to the recommendations contained in the report, makes this a very logical and psychological time for you and a group of leaders in the industry to meet for the purpose of discussing this report and furthering the recommendations made in it.

(Signed) Charles Fahy
Chairman

Stamped:
"Noted by the Secretary
of the Interior"

6194 GOVERNMENT EXHIBIT NO. 1031.

Letterhead of Wadhams Oil Company, Milwaukee, Wisconsin

Mr. Clayton W. Haswell
Foreman of Grand Jury
Madison, Wisconsin

September 8, 1936

Dear Mr. Haswell:

In compliance with your instruction I am forwarding to you a copy of the letter on stabilization from Region 3 Code Office to the State Petroleum Committee in that Region, which letter followed the Administrator's letter to Mr. Arnott as of July 20, 1934.

The letter I am forwarding has been defaced to some extent because I made penciled notations on it to guide my secretary in taking excerpts from the letter. The letter as typewritten is the true copy, and no dilutions or corrections were intended by either the Region 3 Office or myself.

Very truly yours,
Wadhams Oil Company
M. G. Peeters
Vice President

PS: I will be able to write concerning reports from Mr. Blackall to Mr. Maguire during tomorrow.

6195 Letterhead of Planning and Coordination Committee
Regional District No. 3
Chicago, Illinois

No. C. L.-72
July 24, 1934

To: Chairmen State Petroleum Committees

Re: Price Stabilization Committees Authorized by Petroleum Administrator July 20, 1934

On July 20, 1934, Petroleum Administrator Harold L. Ickes, specifically authorized and requested Chairman Charles E. Arnott of the Marketing Committee, Planning and Coordination Committee, Washington, D. C., to designate price stabilization committees for each locality when, and as price wars developed.

These Committees have the expressed authority to confer, negotiate, take whatever action may be necessary to restore markets, stabilize price levels to normal, and stop gasoline price wars. A copy of the Administrator's letter of authority is attached hereto.

Acting under the Administrator's instructions, it is my suggestion that you establish one strong standing or major committee for your territory and as many special or minor committees, as may be deemed expedient to satisfactorily accomplish the purpose for which this mission is intended.

One committee, even working full time, could not possibly be expected to iron out the many difficult situations involved in this assignment. Consequently, the major committee can accomplish much more through assistance than in attempting to cover every bad situation. Nevertheless, there should be whenever possible one member of the major committee on each minor committee and he should be designated Chairman of that Committee, in order that a proper and legal method of procedure will at all times be followed. If this suggestion is found impracticable you must be extremely careful to see that the Chairman of any minor committee, who is not a member of the major committee, is fully instructed as to his duties.

6196 You are respectfully requested to register your nominees for each of these committees with the undersigned, sending the names of the members of all committees to this office as soon as possible. You have full power of action but the personnel of each of these committees must be comprised of every type of marketer in the territory, this regardless of how large or small your Committee may be.

The purposes of these Committees are clearly set forth in the attached letter. You will note a reference to "Clause 2 of Sub-Section A of Section III of the Act". This has reference to the National Industrial Recovery Act and a copy for ready reference is attached hereto.

Regarding the item of public hearings, this does not necessarily mean publicly-advertised hearings, to which the public is invited. It undoubtedly means hearings where every interest involved can confer and negotiate, leaving no fraction unheard.

Ever since price wars started, friendly efforts toward stabilization in an informal manner have been extended by members of the various Code Committees but never before with the expressed sanction of anyone in authority. The procedure followed in the past which has accomplished the desired results should be continued but where negotiations fail, a special committee should be formed, or one or more members of the entire Stabilization Committee should be called upon to effect a settlement.

The instructions contained in the Administrator's letter constitute Federal authority and gives this work official

status, i. e. undertaking an assignment which the Administrative Board could not possibly hope to accomplish, owing to its many duties and the multitude of cut price areas.

Great care must be exercised by these committees to comply strictly with the Administrator's instructions and limitations as set forth in this letter. A report in quadruplicate should be sent to this office covering all of the facts developed by the committee comprising all reasonable data ascertainable and indicating the recommendations or disposition predicated on the work undertaken.

All states now have so-called Restoration Committees appointed under and by direction of the resolution of the Planning and Coordination Committee, approved by the Administrator on February 20, 1934, relating to Article V, Rule 3, Paragraph 7. These Committees having strictly limited duties, there would be no objection to combining their duties with this Committee, if it is so desired.

Yours very truly,
Regional Planning and Coordination Com. #3
By: A. G. Maguire
Chairman for Marketing

1-2-10
Copies to:
General Chairman
Regional Chairman for Mar.

6197 National Industrial Recovery Act

Clause (2) of Sub-Section (a) of Sec. III

"That such code or codes are not designed to promote monopolies or to eliminate or oppress small enterprises and will not operate to discriminate against them, and will tend to effectuate the policy of this title.

Provided, that such code or codes shall not permit monopolies or monopolistic practices:

Provided further, that where such code or codes affect the services and welfare of persons engaged in other steps of the economic process, nothing in this section shall deprive such persons of the right to be heard prior to approval by the President of such code or codes.

The President may, as a condition of his approval of any such code, impose such conditions (including requirements for the making of reports and the keeping of accounts) for the protection of consumers, competitors, employees and others, and in furtherance of the public interest, and may provide such exceptions to and exemptions from the provisions of such code, as the President in his discretion deems necessary to effectuate the policy herein declared."

GOVERNMENT EXHIBIT NO. 1032.

Shipment of Refined Gasoline (In Tank Cars) From 34 Independent Refineries Located in East Texas Area During the Period March 1, 1935 To March 3, 1936

	Barnsdall Refining Corp.	Cities Service Company	Empire Oil and Refining Company	Louisiana Oil Refining Corp.	Continental Oil Company	Globe Oil and Refining Company (3)	Gulf Refining Company	Mid-Continent Petroleum Corp.
Alton Refining Company				1				8
Arrow Refining & Producing Company		26					107	
Cascade Refining Company							35	
Century Refining Company	3				68		2	5
Chief Refining Company					10		45	
Condor Refining Company					4			
Danciger Refineries, Inc.								
Dominant Refining Company								
Eastex Cracking Company								
East Texas Refining Company	11	14	2	839	24	11	846	
Gilliland Refining Company	6	76		82	107		283	15
Hercules Oil Company								
Hurricane Petroleum Corp.	3			10			62	1
Johnston-Burnham Refineries, Inc.							7	
Lapren Refining Company		27			2		28	
Lone Star Refining Company		1			12			
Lyle Refining Company								
Marimac Oil Company Inc							25	
Marine Export Corporation								
Matthews Refining Company								
McMurray Refining Company	4	10			10		181	
Ocean Refining Company	4						60	23
Oil Refineries, Inc.		10		47			24	
Premier Oil Refining Co. of Texas					12		80	
Producers Oil & Refining Company								

	Barnsdall Refining Corp.	Cities Service Company	Empire Oil and Refining Company	Louisiana Oil Refining Corp.	Continental Oil Company	Globe Oil and Refining Company (3)	Gulf Refining Company	Mid-Continent Petroleum Corp.
Riverside Refining Company					32		75	
Solvex Refineries, Inc		95		2			85	
Southport Petroleum Company		21		17	65		248	7
Texas Oil Products Company				17			30	
Trio Refining Company		20					53	
Texover Refining Company							87	
Trinity Refining Company		20			1		87	11
Tyreco Refining Company					39			
Utah Refining Company								
Totals	31	320	2	1015	386	11	2450	70
Percentages	.129%	1.331%	.009%	4.220%	1.605%	.046%	10.186%	.291%

Source: Records of daily shipments compiled by Federal Tender Board #1, Kilgore, Texas.

	Phillips Petroleum Company	The Pure Oil Company	Socony-Vacuum Oil Co., Inc.	Wadhams Oil Company	Sinclair Refining Company	Shell Petroleum Corp.	Skelly Oil Company	The Texas Company	Others	Total
Alton Refining Co									21	30
Arrow Refg. & Prod. Co		9			166			3	281	502
Cascade Refg. Co					90				751	876
Century Refg. Co	3	5		5	116	5			339	551
Chief Refg. Co		153	6	5	46				74	339
Condor Refg. Co									33	37
Danciger Refineries, Inc									23	23
Dominant Refining Co					34				10	44
Eastex Cracking Co									31	31
East Texas Refg. Co	20	20	13	107	132	8	10	30	2387	4474
Gilliland Refg. Co		156	3	5	704		10	90	1842	3379
Hercules Oil Company									9	9
Hurricane Petroleum Corp		35		14	382		10	265	1094	1876
Johnston-Burnham Ref's., Inc				2	9				77	95
Lapren Refg. Co					32				211	300
Lone Star Refg. Co					1				99	113
Lyle Refining Company									6	6
Marimac Oil Company, Inc		16			73	10			23	147
Marine Export Corporation						7			1	8
Matthews Refining Company					14				19	33
McMurray Refining Company		12	1	19	113			84	368	802
Ocean Refining Company			8	11	42				533	681
Oil Refineries, Inc		176			220			87	619	1183
Premier Oil Refg. Co. of Texas		17			375		12	55	599	1150
Producers Oil & Refining Co									1	1

	Phillips Petroleum Company	The Pure Oil Company	Socony-Vacuum Oil Co., Inc.	Wadhams Oil Company	Sinclair Refining Company	Shell Petroleum Corp.	Skelly Oil Company	The Texas Company	Others	Total
Riverside Refg. Co									10	10
Solvex Refineries, Inc		20			84			100	220	531
Southport Petroleum Co				3	283				1222	1690
Texas Oil Products Co		15		14	500	10	10		263	1170
Trio Refining Company		525			59			186	882	1690
Texover Refining Co		23			11				58	165
Trinity Refining Co					75				77	239
Tyreco Refining Co	7	15		12	226		15		1330	1724
Utah Refining Company									5	44
Totals	30	1197	31	197	3787	40	67	900	13518	24052
Percentages	.125%	4.977%	.129%	.819%	15.745%	.166%	.278%	3.742%	56.202%	100.000%

Source: Records of daily shipments compiled by Federal Tender Board #1, Kilgore, Texas.

6202 **GOVERNMENT EXHIBIT NO. 1033.**

Purchases of Third Grade Gasoline by Sinclair Refining Company From Independent Refiners in the East Texas Field During the Period March 1, 1935 to April 30, 1936

In Tank Cars

1935	East Texas
March	92
April	336
May	269
June	274
July	358
August	353
September	346
October	539
November	418
December	389
1936	
January	305
February	264
March	154
April	166
Total	4263

6203 **GOVERNMENT EXHIBIT NO. 1034.**

The Globe Oil & Refining Co.
Illinois

Purchase Order No. A4535
Chicago, Sept. 18, 1935
Illinois

To T. R. Vaughn
59 E. Van Buren Street
Chicago, Illinois

Contract or
Quotation No.

To be Shipped As instructed

Ship to The Globe Oil & Refining Co.

At
Via

Req. No. By F. O. B. Group 3

This order is placed subject to the following conditions and instructions:

Conditions

The right is reserved to cancel all or any part if not shipped as promised.

No charges will be allowed for packing or cartage unless specified in quotation.

All invoices on which no cash discount is allowed will be due on the 20th prox.

This order must not be filled at a higher price than last quoted or charged. If prices have advanced hold and ask for advice.

If these conditions are not acceptable, advise us before making shipment.

Instructions

Advise Receipt and Acceptance Promptly, advising when shipment will be made.

Show This Order Number On Tag, Box, Bill Of Lading or Express Receipt and Invoice.

Render invoice in duplicate and mail to Blackwell, Okla.

Render separate invoice for each shipment or carload applying on this order.

Indicate on this invoice discount for monthly or ten-day payment.

No responsibility will be assumed for verbal orders given by employees.

Quantity	Description	Price
20 T/C	Imperial Refining Company, Wickett, Texas, U. S. Motor Gasoline For shipment at the rate of two cars daily, Sundays excluded. Instructions to follow. Federal Tax Free. Federal Tax Exemption Certificate Attached. Invoice In Triplicate.	.045¢ per gallon

The Globe Oil & Refining Co.
By D. L. Meece
Purchasing Agent

Notice

Issue invoice in triplicate.

6204 **GOVERNMENT EXHIBIT NO. 1035.**

Sales Acknowledgment

No. 873

T. R. Vaughn
Chicago, Ill. . Date Sept. 18, 1935

Globe Oil & Refining Co.
Chicago, Illinois

Handwritten Notations
"Shipped against this purchase—

9-19	IMRX	1150
9-20	"	1100
9-21	GATX	29675
	"	29507
	"	29417
9-23	IMRX	1149
9-26	GATX	15382
	IMRX	1153
	GATX	29449
	"	29404
		29561

balance cancelled by Globe—"

We acknowledge your order for:
Quantity 20 T/C
Commodity U.S. Motor Gasoline
To be shipped as follows: Federal Tax Exempt

As Instructed—At the rate of two cars per day, Sundays excluded.

This material will be invoiced to you by:
T. R. Vaughn
at a price of 4½¢ per gal. F. O. B. Group 3 Okla.
Terms: 1% 10 days

T. R. Vaughn Oils
By .....

6205 **DEFENSE EXHIBIT NO. 1036.**

September 26, 1935

T. R. Vaughn Oils
59 E. Van Buren Street
Chicago, Illinois

Gentlemen:

We regret sincerely that your inability to secure shipments at the rate of two cars daily as specified by your Refinery Supplier when we placed our Purchase Order No. A-4535 with you makes it necessary that we cancel past due instructions on which you have been unable to secure car numbers so that we may arrange for immediate shipment from one of our own Plants.

Please make immediate cancellation of orders covering the five instructions listed below.

1 car Farmers Supply Company
Colusa, Illinois
Via CB & Q at K.C.

1 car Order of the W. H. Barber Company
Notify Egyptian Service Company
Salem, Illinois
Via K.C. Mo-Pac, Centralia, M & I

1 car Wabash Valley Service Company
Ridgeway, Illinois
Via B & O at E. St. Louis

1 car Woodford County Service Company
Goodfield, Illinois
Nickel Plate

1 car Logan Mason Service Company
Lincoln, Illinois
Via I C at St. Louis

Unless you are able to furnish car numbers covering the three additional shipments listed below before 3:00 P. M. this afternoon, we will cancel those instructions and will arrange for shipment elsewhere.

1 car to Logan Mason Service Company
Easton, Illinois
Via I.C. at E. St. Louis

6206 1 car to Warren County Service Company
Oil City, Illinois
Via SantaFe, Nemo M. & St. L, Monmouth, RIS

1 car to Shelby-Effingham Service Company
Westervelt, Illinois
Via C & EI at E. St. Louis

Please understand that instructions cancelled because of delayed shipments will be deducted from the total purchase order and will not be reinstated at a later date.

We will see that you are furnished shipping instructions to cover two cars of gasoline daily but if car numbers are not furnished to us within twenty-four hours after the date on which shipments should move, we will cancel each days quota on which shipments are not made and car numbers furnished and place instructions elsewhere. This action is forced upon us because our own customer has refused to give us additional shipping instructions because of our failure to furnish car numbers and has advised us that he is placing instructions which he would ordinarily place with us with another source from which he is able to secure car numbers.

Very truly yours,

_____

Assistant Sales Manager.

Brown L. Meece
cc-Blackwell
cc-Wichita

6207 **DEFENSE EXHIBIT NO. 1038.**

September 20, 1935

T. R. Vaughn Oils
59 E. Van Buren Street
Chicago, Illinois

Attention: Miss Raab

Gentlemen:

Confirming 'phone conversations of the 18th and 19th, will you please make immediate shipment of gasoline applying against our Purchase Order No. A-4535 of September 18th to the following destinations:

1 car to Whiteside Service Company
Lyndon, Illinois
Via CB & Q at K.C.

1 car to Menard County Farmers Supply Company
Petersburg, Illinois
Via Alton at K.C.

1 car to Monroe Service Company
Waterloo, Illinois
Via M & O at E. St. Louis

1 car to Carroll County Service Company
Lanark, Illinois
Via Chicago, Milwaukee & St. P. at K.C.

1 car to McLean County Service Company
Bloomington, Illinois
Via Alton at K.C.

1 car to Logan Mason Service Company
Easton, Illinois
Via I.C. at E. St. Louis

1 car to Warren County Service Company
Oil City, Illinois
Via Santa Fe, Nemo M & St. L, Monmouth, RIS

(In left-hand margin):

(Handwritten Notation):
"INRX 1149
9/23"

6208 1 car to Shelby-Effingham Service Company
Westervelt, Illinois
Via C & EI at E. St. Louis

1 car to Farmers Supply Company
Colusa, Illinois
Via CB & Q at K.C.

1 car to Order of the W. H. Barber Company
Notify Egyptian Service Company
Salem, Illinois
Via K. C. Mo-Pac, Centralia, M & I

1 car to Wabash Valley Service Company
Ridgeway, Illinois
Via B & O at E. St. Louis

1 car to Woodford County Service Company
Goodfield, Illinois
Nickel Plate

1 car to Logan Mason Service Company
Lincoln, Illinois
Via IC at St. Louis

(In right-hand margin):

(Handwritten Notations):

"GATX 15382
9/25"

"GATX 29404
Oil City"

"GATX 29449
Westervelt"

"INRX 1153
Colusa"

According to our records this will leave a balance of seven cars.

Very truly yours,
J. M. Alexander

k
cc-Mr. C. Black

6209 **DEFENSE EXHIBIT NO. 1040.**

(Sales acknowledgment T. R. Vaughn to Globe Oil & Refining Company, September 18, 1935, identical with Exhibit 1035 without handwritten notations.)

6210 **GOVERNMENT EXHIBIT NO. 1043.**

Stipulation.

A. J. Galloway was, during the period covered by this indictment, an officer of Shell Petroleum Corporation.

J. L. Minner was, during the period covered by this indictment, the assistant fuel oil sales manager of Shell Petroleum Corporation.

Exhibit 190 was written by Harry Jacobs, signed by him with P. E. Lakin's name and sent to Alexander Fraser. Exhibit 191 was written by Harry Jacobs, signed by P. E. Lakin, and sent to Alexander Fraser. Exhibit 192 was written by Harry Jacobs, signed by him with P. E. Lakin's name, and sent to Alexander Fraser. Exhibit 193 was written by Harry Jacobs, signed by him with P. E. Lakin's name, and sent to Alexander Fraser. Exhibit 209 was written by Harry Jacobs, signed by P. E. Lakin, and sent to Alexander Fraser. Exhibit 230 was received by P. E. Lakin in response to Exhibit 232. Exhibit 231 was received by P. E. Lakin as an enclosure with document bearing identification number 230. Exhibit 248 was written by C. E. Davis and sent to Alexander Fraser and copies were sent to R. P. Bascom, A. J. Galloway, L. van Eeghen, J. H. Salmon, Harry Jacobs, J. L. Minner, A. P. Reuther and Norman McGaw. Copies may be used in lieu of originals.

Any pencilled or other notations appearing on the above mentioned documents are specifically excluded from this stipulation.

The defendants expressly reserve the right to all objections against the admissibility of these documents except as stipulated.

6211 GOVERNMENT EXHIBIT NO. 1044.

Stipulation.

Exhibits 24, 27, 52 were written by the one so indicated on the document and were received by the addressee. Copies may be used in lieu of originals.

Any pencilled or other notations appearing on the above mentioned documents are specifically excluded from this stipulation.

The defendants expressly reserve the right to all objections against the admissibility of these documents except as stipulated.

6212 GOVERNMENT EXHIBIT NO. 1045.

Stipulation.

Clyde M. Boggs was, from April 8, 1935 until the end of the period covered by the indictment, a non-salaried officer, to wit, the president of the Western Petroleum Refiners' Ass'n.

Exhibits 135 and 136 were written by Clyde M. Boggs and were sent to J. J. Taxman. Copies may be used in lieu of originals.

Any pencilled or other notations appearing on the above mentioned documents are specifically excluded from this stipulation.

The defendants expressly reserve the right to all objections against the admissibility of these documents except as stipulated.

6213 GOVERNMENT EXHIBIT NO. 1046.

Stipulation.

Exhibits 320 and 321 were written by D. K. Chamberlain and were sent to R. D. Cline; Exhibit 329 was written by D. K. Chamberlain and sent to Grogan Oil Company, Attention W. F. Kostelka, and a copy was sent to R. D. Cline. Copies may be used in lieu of originals.

Any pencilled or other notations appearing on the above mentioned documents are specifically excluded from this stipulation.

The defendants expressly reserve the right to all objections against the admissibility of these documents except as stipulated.

6214 **GOVERNMENT EXHIBIT NO. 1047.**

Stipulation.

Exhibits 316-319 were written by R. O. Audrain and were sent to R. D. Cline. Copies may be used in lieu of originals.

Any pencilled or other notations appearing on the above mentioned documents are specifically excluded from this stipulation.

The defendants expressly reserve the right to all objections against the admissibility of these documents except as stipulated.

6215 **DEFENSE EXHIBIT NO. 1048.**

Telegram.

Wichita, Kansas
Jan. 14, 1938

Ralph Horween, Atty.
Care Hotel Loraine
Madison, Wis.

Examination Chicago Office telephone bill for September 1935 discloses there were no long distance telephone calls to St. Louis, Missouri on September 17, 18 or 19, 1935. Sending original telephone bill for September 1935 air mail tonight should arrive Madison 12:55 Friday

R. E. Everitt.

6216 **DEFENSE EXHIBIT NO. 1049.**

(Teletype from Globe of Wichita to Globe Oil & Refining Co., Chicago, Illinois.)

Relative wire 24th pls rush all possible Illinois Farm US Gasoline to following destinations one car Wabash Valley Service Co Ridgwxx Ridgeway Ill via B&O at E St Louis one car Woodford County Ser Co Goodfield Ill via xxx Nickel Plate one car Logan Mason Service Co Lincoln Ill via IC at St Louis may have 2 additional instructions this afternoon above cars placed 19th with us invoice Barber Co in usual manner END

6217 **DEFENSE EXHIBIT NO. 1050.**

Letterhead of W. H. Barber Company, Chicago, Ill.

October 4, 1935.

The Globe Oil & Refining Company,
59 E. Van Buren Street,
Chicago, Illinois

Gentlemen:

Attached hereto is a copy of letter received from the Illinois Farm Supply Company. Please note that the Shelby-Effingham Service Company is expecting to send us an expense bill covering expense which they were put to by reason of delayed shipment on their order for U. S. Motor placed September 19 which was shipped from Wickett, Texas on September 24. This account was out of gasoline for a number of days and was obliged to haul material from other plants.

These outside shipments caused us a lot of grief and resulted in the Illinois Farm Supply Company placing orders with other suppliers during the last half of the month. For the first nineteen days we received 48 orders for U. S. Motor gasoline which normally would have been shipped out of Blackwell. Due to unsatisfactory service on the outside shipments we have failed to receive additional orders for Motor gasoline from September 19 to the present time. This will give you some idea as to the amount of business lost due to making these outside purchases.

Very truly yours,
W. H. Barber Company,
By J. R. Taylor.

(Handwritten Notation):
"Meece Pl Note"

6218 Copy

Illinois Farm Supply Company

October 3, 1935.

W. H. Barber Company,
3650 South Homan Avenue,
Chicago, Illinois

Attention: Mr. Duffy

Gentlemen:

This will confirm our telephone conversation of this morning on which we called your attention to an apparent duplication of our order #57678, covering U. S. Motor Gasoline for the Shelby-Effingham Service Company at Westervelt.

We were informed by long distance this morning, that in addition to car GATX 29449, which finally reached destination yesterday, another car arrived this morning. This is GATX 29561, which must be reconsigned elsewhere, inasmuch as storage facilities at Westervelt will not permit the unloading of two cars.

In case you fail to reconsign the car before demurage accrues, we will expect you to reimburse the Shelby-Effingham Service Company in full.

The aforementioned car which was unloaded was subject to a reconsigning charge and inasmuch as we issued no diversion instructions from this office, we will also expect you to reimburse the Shelby-Effingham Service Company for this expense. In fact, we have instructed them to itemize all the expense which they incurred because of the delay in filling our order #57678, including telephone calls to this office.

Yours very truly,
Illinois Farm Supply Co.
H. J. Johnson.

6219 DEFENSE EXHIBIT NO. 1051.

Letterhead of W. H. Barber Company, Chicago, Ill.

October 7th, 1935.

Globe Oil and Refining Co.,
Rm. 2115—Buckingham Bldg.,
59 E. Van Buren St.,
Chicago, Illinois.

Attention Mr. J. Alexander

Gentlemen:

The Illinois Farm Supply Company inform us that GATX 29401 is on track at Colusa, Illinois and IMRX 1114 is on hand at Oil City, Illinois. These cars were shipped from Wickett, Texas and are duplications.

We would suggest that you notify the shipper to arrange to make some disposition of these cars.

Very truly yours,
W. H. Barber Company,
By J. R. Taylor.

6220 DEFENSE EXHIBIT NO. 1052.

This exhibit, not otherwise printed, consists of purchase orders and invoices

(1) of Globe Oil & Refining Company (Oklahoma) showing that in August 1931, 40 tank cars of purchased gasoline were sold at a loss; that in September 1933, 23 tank cars of purchased gasoline were sold at a loss; that in June 1933, 40 tank cars of purchased gasoline were sold at a loss;

(2) of Globe Oil & Refining Company (Illinois) showing that in May 1933, 5 tank cars of purchased gasoline were sold a loss.

6221 GOVERNMENT EXHIBIT NO. 1053.

6222 Stipulation.

It Is Hereby Stipulated that H. Russell Richards of Continental Oil Company, if called as a witness in the above entitled action would testify that certain of the customers listed in Exhibit 926 in evidence were under contract to Continental Oil Company for the purchase of "Conoco Bronze" and/or "Demand" gasoline during the periods indicated after their respective names on Exhibit A hereto annexed, and during certain other periods similarly indicated, said witnesses were not under contract.

It Is Further Stipulated that said witness would testify that it was the practice of the division offices, particularly the Kansas City division office serving Kansas City
6223 and Missouri, to immediately start invoicing a customer on a spot basis when a contract expired and in most such instances the spot price charged on regular gasoline was higher than the price would have been if the customer were under contract.

It Is Further Stipulated that the following sales to the following customers tabulated on said Exhibit 926 were the only sales tabulated on Exhibit 1024 in evidence:

Bloom Cooperative Oil Company, Bloom, Kansas.—This customer was not under contract from June 1, 1934 to September 23, 1935. The following sales to this customer were plotted on Exhibit 1024:

February 1, 1935,—Conoco Bronze and third-grade.
May 2, 1935,—Conoco Bronze and third-grade.

Campeco Oil Company, Manistee, Michigan.—This customer was not under contract during any of the years from 1934 through 1936, inclusive. One sale of Conoco Bronze to this customer on May 24, 1935 was plotted on Exhibit 1024.

Cox-Prigel Oil Company, Raytown, Missouri.—This customer was not under contract between January 1 and November 20, 1935. During this period one sale of Conoco Bronze to this customer on November 15, 1935, was plotted on Exhibit 1024.

6224 DeForest Oil Company, Farmington, Missouri.—This customer was not under contract during any of the years from 1934 through 1936, inclusive. One sale of Conoco Bronze to this customer on September 24, 1935 was plotted on Exhibit 1024.

Dickson Oil Company, Brazil, Indiana.—This customer was not under contract during any of the years from 1934 through 1936, inclusive. One sale of third-grade gasoline to this customer on April 6, 1935 was plotted on Exhibit 1024.

R. C. Martin, DeLassus, Missouri.—The last contract with this customer expired on December 30, 1933. Sales of Conoco Bronze to this customer on the following dates were plotted on Exhibit 1024:

January 28, 1935
April 11, 1935
May 27, 1935

Michigamme Oil Company, Ann Arbor, Michigan.—The contract with this customer, dated June 1, 1934, was cancelled by letter dated May 1, 1935. Sales of Conoco Bronze to this customer on the following dates were plotted on Exhibit 1024:

May 7, 1935
May 20, 1935
May 27, 1935

Barton Super Service, Alma, Michigan.—This customer was not under contract during any of the years from 1934 through 1936, inclusive. One sale of Conoco Bronze
6225 on November 7, 1935 to this customer was plotted on Exhibit 1024.

6226

EXHIBIT A

Pete Dominic—Attention Granville Whittlesey, Jr.

Madison, Wis., Jan 7th, 1938

In accordance your telephone and teletype request yesterday am furnishing below contract record with reference to customers shown on tabulation "spot sales to jobbers"—regarding customers sold in spot between expiration of one contract and the beginning of a new one can only say that it was practice of the division offices, one in particular namely Kansas City "which serves Kansas & Missouri" to immediately start invoicing a customer on spot basis when a contract expired and they charged a spot price which on regular gasoline in most instances was higher than the contract price to the customer would have been. That these actually classify as spot sales has been verified by the sales division offices which actually handled the transactions with the customers.

All contracts are drawn to cover period of one year commencing on effective date which is first date shown.

Name of Customer	Effective Date of Contracts 1934 thru 1936	Products Covered	Lapse Periods
	AA.....	.....	.....
Admire Oil Co.....	9/21/34 to 9/21/35	Conoco Bronze Demand Gasoline	9/21/35 to 10/ 2/35
6227			
Admire.....	10/ 2/35 to 10/ 2/36	Ditto	
Admire.....	No further Contracts 1936		10/ 2/36 to 1/13/37
Kansas.....	Next Contract 1/13/37		Sold on spot during this period
Bartons Super Service Alma, Michigan.....	No Contract		
Barstow Oil Co.....	4/13/34 to 4/13/35	Conoco Ethyl	4/13/35 to 4/15/35
	4/15/35 to 4/15/36	Conoco Bronze Conoco Ethyl	4/15/36 to 6/ 1/36
Menominee Michigan.....	6/ 1/36 to 6/ 1/37	Ditto (Ethyl)	
Products sold on spot not covered by contract—Conoco Special Gasoline /68-72 300 E.P./			
Bloom Co-Op Oil Co.....	Contract Expired 6/1/34..... Next Contract 9/23/35 to 9/23/36		6/ 1/34 to 9/23/35 Sold on Spot during this period
		Conoco Bronze	9/23/36 thru balance
Bloom, Kansas.....	No further Contract	Demand Gasoline	1936
Boyd Bros.....	10/ 5/34 to 10/ 5/35	Conoco Bronze	10/ 5/35 to 11/26/35
Laddonia.....		Demand Gasoline	Sold on spot during this period
Missouri.....	11/26/35 to 11/26/36	Ditto	
	10/24/36 to 10/24/37	Ditto	

6228

Name of Customer	Date of Contracts 1934 thru 1936	Products Covered	Lapse Periods
Ernest Brinkerhoff	7/28/34 to 7/28/35	Conoco Bronze	7/28/35
Elkhardt		Demand Gasoline	
Indiana	7/29/35 to 7/29/36	Conoco Bronze	
	7/29/36 to 7/29/37	Conoco Bronze	
Products sold on spot not covered by contract—64-66 375 E.P.			
Campeco Oil Co.			
Manistee, Michigan	No Contract		
Checker Board	11/20/34 to 11/20/35	Conoco Bronze	
		Conoco Ethyl	11/20/35 to 2/11/36
Camps & Oil Co.		Demand	
Coolidge, Kans	2/11/36 to 2/11/37	Conoco Bronze	Sold one car on spot
		Demand	12/9/35
Cox-Prigel Oil Co	11/20/35 to 11/20/36	Conoco Bronze	1/ 1/35 to 11/20/35
Raytown, Mo	10/28/36 to 10/28/37	Demand Gasoline	Sold one car on spot
		Ditto	11/15/3
De Forest Oil Co.			
Farmington, Missouri	No Contract		
Dickson Oil Co.			
Brasil, Indiana	No Contract		
Erie Oil Co	3/ 1/34 to 3/ 1/35	Conoco Bronze	
Sheboygan		Conoco Ethyl	
Wisconsin		Demand	
	3/ 1/35 to 3/ 1/36	Ditto	
	3/ 1/36 to 3/ 1/37	Ditto	
Products sold on spot not covered by contract—68-70 E. P. 360.			

6229

Excel Oil Co	4/ 6/34 to 4/ 6/35	Conoco Bronze	
Mascoutah	4/ 6/35 to 4/ 6/36	Conoco Bronze	4/ 6/36 to 4/16/36
Illinois		Demand	Sold 1 car on spot
	4/16/36 to 4/16/37	Ditto	4/9/36
Freeport Pet. Corp	9/25/34 to 9/25/35	Conoco Bronze	9/25/36 to 9/27/36
Freeport, Ill		Conoco Ethyl	
	9/27/35 to 9/27/36	Ditto	9/27/36
	9/28/36 to 9/28/37	Ditto	
Products sold on spot not covered by Contract—64-66 375 E.P.			
A. R. Granneman			
Gilliam	2/15/34 to 2/15/35	Conoco Bronze	2/15/35 to 4/22/35
Mo	4/22/35 to 4/22/36	Conoco Bronze	"Sold on spot during
		Demand	this period"
	9/ 2/36 to 9/ 2/37	Conoco Bronze	4/22/36 to 9/2/36Z
		Conoco Ethyl	"Sold on spot except
		Demand	that all cars shpt. between 4/22/36 and 9/1/36 adjust to contract price per credit memo of 10/9/36

6230

Name of Customer	Date of Contracts 1934 thru 1936	Products Covered	Lapse Periods
Hill Oil Co	7/ 3/34 to 7/ 3/35	Conoco Bronze	7/ 3/35 to 7/17/35
Washington		Demand	7/17/36 to 10/20/36
Kansas	7/17/35 to 7/17/36	Conoco Bronze	Sold 1 car on spot 8/30/36
	10/20/36 to 10/20/37	Conoco Bronze Demand	
Hoover Lewis Oil	4/ 2/34 to 4/ 2/35	Conoco Bronze Demand Price Clause	4/ 2/35 to 4/10/35
Princeton, Mo	4/10/35 to 4/10/36	Conoco Bronze Demand	4/10/36 to 5/ 4/36 Sold 1 car on spot 4/23/36
	5/ 4/36 to 5/ 4/37	Ditto	
Ideal Service Station	11/ 1/34 to 11/ 1/35	Conoco Bronze 68-70 Aviation Conoco Ethyl	1/ 1/35 to 1/16/35
Bremen, Indiana	1/16/35 to 1/16/36	Demand 68-70 Aviation Gasoline Fighting Grade	1/16/36 thru balance 36 Sold on spot after 3/27/36 Conoco Special 68-72 300 E. P.
	11/ 1/35 to 11/ 1/36		
	11/ 1/35 to 11/ 1/36	Conoco Bronze " Ethyl	Bronze & Ethyl 11/ 1/36 to 12/16/36
	12/16/36 to 12/16/37	Conoco Bronze " Ethyl Demand	Demand 11/ 1/35 to 12/16/36

XXX products sold on spot not covered by contract—6-XXX 64-66 375 E. P.

6231

Knowlton Oil Co	9/29/34 to 9/29/35	Conoco Bronze Demand	9/29/35 to 6/15/36
Knowlston, Wis	6/15/36 to 6/15/37	Conoco Bronze	Sold one car on spot 4/30/36
Leonard Oil Co	Contract expired 12/14/34		12/15/34 to 1/11/35
Windsor	1/11/35 to 1/11/36	Conoco Bronze Demand	
Mo	1/11/36 to 1/11/37	Conoco Bronze	
	This contract altho effective 1/11/36 was not executed until 4/20/36. We sold on spot during this period pending execution of contract.		
R. C. Martin	Last contract expired 12/30/33		
Delassus, Mo	/Farmington		
Michigamme Oil Co	6/1/34	Conoco Bronze	5/1/35 thru to end of
Cancelled	5/1/35	" Ethyl	1936. Sold on spot
By Letter		Demand	during this period.
Ann Arbor, Mich			
Neeley Oil Co			
Neeley Oil Co	5/20/35 to 5/20/36	Conoco Bronze	1/ 1/35 to 5/20/35
Ellington		Demand	5/20/36 to 6/29/36
Missouri			Sold on spot during these periods
	6/29/36 to 6/29/37	Conoco Bronze Demand	

6232

Name of Customer	Date of Contracts 1934 thru 1936	Products Covered	Lapse Periods
Norris Oil Ser.	Contract Expired		1/ 1/35 to 3/16/36
Rochester	7/13/34		
Ind.	Next Contract		
	3/16/36 to 3/16/37	Conoco Bronze	Sold one car on spot
		Demand	1/21/36
Petosky Oil Co.	Petosky, Mich.—No Contract		
Sands Pet. Co.	4/20/34 to 4/20/35	Conoco Bronze	4/20/35 to 4/22/35
Marceline, Mo.	4/22/35 to 4/22/36	Conoco Bronze	4/22/36 to 5/28/36
	5/28/36 to 5/28/37	" Bronze	Sold one car on spot 5/21/36
Frank Strunk	Contract Expired 4/25/34		
Kansas City	8/26/35 to 8/26/36	Conoco Bronze	4/26/34 to 8/26/35
Mo.		" Ethyl	
		Demand	Sold on spot during this period
	11/ 4/36 to 11/ 4/37	Ditto	8/26/35 to 11/ 4/36
Stephai Strupp	4/29/34 to 4/19/35	Conoco Bronze	
		" Ethyl	
Manitowac		Demand	
Wisc.	4/18/35 to 4/18/36	Ditto	4/18/36
	4/19/36 to 4/19/37	Ditto	
Products sold on spot not covered by contract—64-66 375 E. P.			

6233

C. Humbert Tinsman	4/ 5/34 to 4/ 5/35	Conoco Bronze	4/ 5/35 to 4/22/35
Kansas City		Ethyl	Sold on spot during this period
Missouri		Demand	
	4/22/35 to 4/22/36	Ditto	
	4/22/36 to 4/22/37	Ditto	
Triangle Oil Co.	3/15/34 to 3/15/35	Conoco Bronze	3/15/35 to 3/25/35
La Porte		" Ethyl	
Indiana	3/25/35 to 3/25/36	" Bronze	3/25/36 to 3/30/36
	3/30/36 to 3/30/37	" Bronze	Shows demand price Clause
Products sold on spot not covered by contract—64-66 375 E. P.			
D. A. Winters Tire Co.			
Wichita	5/14/34 to 5/14/35	Conoco Bronze	5/14/35 to 5/20/35
Kansas	5/20/35 to 5/20/36	Conoco Bronze	Sold one car on spot
		Demand	5/14/35
	5/20/36 to 5/20/37	Ditto	
Clyde C. Yount	3/22/35 to 3/22/36	Conoco Bronze	1/ 1/35 to 3/22/35
Wichita		Demand	3/22/36 to 4/18/36
Kansas	4/18/36 to 4/18/37	Ditto	Sold on spot during this period

6234

Granneman Credit Adjusting Price from spot to Contract is only one we have been able to locate in our files, but I am having our division offices check further to see if any other lapsed contracts sold on spot were later adjusted to contract prices—Will inform you as soon as I hear from them.

H. Russell Richards
952 AM

6234a **DEFENSE EXHIBIT NO. 1054.**

This exhibit consists of Globe Oil & Refining Company (Illinois) telephone statements covering the period from August 21, through September 25, 1935, together with a letter dated October 8, 1935, from Globe of Illinois to Globe Oil & Refining Company (Oklahoma) stating that the bill had been checked and approved for payment, and a voucher showing payment on October 10, 1935, all having been received in evidence in support of the testimony of B. L. Meece at R. p. 1878 and of Exhibit 1048. In view of this testimony and Exhibit 1048, the statements, letter and voucher have not been printed.

6234b IN THE DISTRICT COURT OF THE UNITED STATES.

• • (Caption—11365) • •

CLERK'S CERTIFICATE.

I, Herbert C. Hale, Clerk of the District Court of the United States for the Western District of Wisconsin, do hereby certify that the foregoing and annexed nine volumes as follows:

Volume I, consisting of pages 164 to 999, inclusive.
Volume II, consisting of pages 1,000 to 1,999, inclusive.
Volume III, consisting of pages 2,000 to 2,999, inclusive.
Volume IV, consisting of pages 3,000 to 3,999, inclusive.
Volume V, consisting of pages 4,000 to 4,654, inclusive, and the Certificate of Judge.
Volume VI, consisting of Volume of Exhibits A.
Volume VII, consisting of Volume of Exhibits B.
6234c Volume VIII, consisting of Volume of Exhibits C.
Volume IX, consisting of Volume of Exhibits D.

(This same certificate being attached at the end of each of said volumes), constitute the true, full, correct and complete Bill of Exceptions together with the said Exhibits as a part thereof, which was duly approved and signed by the Honorable Patrick T. Stone, Judge of said Court, and filed with me in my official capacity on December 9, 1938 at the United States Courthouse of the above Court at La Crosse, Wisconsin, and ordered to be made a part of the record in the above-entitled cause.

I further certify that the foregoing Bill of Exceptions was not settled at the time the original record on these appeals was transmitted and filed with the Clerk of the United States Circuit Court of Appeals for the Seventh Circuit on August 19, 1938, and that, pursuant to Item 63 (Bill of Exceptions) designated in the Praecipe of the Transcript of Record filed in this Court on August 19, 1938, the foregoing Bill of Exceptions, consisting of said nine volumes is transmitted to the Clerk of the United States Circuit Court of Appeals for the Seventh Circuit as a part of the transcript of record in the above-entitled cause, and

I further certify that transmitted herewith is the original defendants-appellants' Assignment of Errors which
6235 was duly filed with me in my official capacity at the United States Courthouse of the above Court at La Crosse, Wisconsin, on December 9, 1938 within the time

allowed by the Order of this Court dated July 20, 1938 and pursuant to Paragraph 3 of said Order, and that, pursuant to Item 64 (Assignment of Errors) designated in the Praecipe for Transcript of Record filed in this Court on August 19, 1938, the foregoing defendants-appellants' Assignments of Errors is transmitted to the Clerk of the United States Circuit Court of Appeals for the Seventh Circuit.

In Witness Whereof I have hereunto subscribed my name and caused to be herewith affixed the seal of the District Court of the United States for the Western District of Wisconsin, this 15th day of December, 1938.

H. C. Hale,
Clerk of the District Court of the United States for the Western District of Wisconsin.

(Seal)

At a regular term of the United States Circuit Court of Appeals for the Seventh Circuit, held in the City of Chicago, and begun on the Fifth Day of October, in the Year of our Lord One Thousand Nine Hundred and Thirty-Seven, and of our Independence the One Hundred and Sixty-Second.

6721

THE UNITED STATES OF AMERICA, PLAINTIFF-APELLEE

vs.

SOCONY-VACUUM OIL COMPANY, INC., ET AL., DEFENDANTS-APPELLANTS

Appeal from the District Court of the United States for the Western District of Wisconsin

And on, to wit, the 21st day of July 1938, there was filed in the office of the Clerk of this Court a notice of appeal, which said notice of appeal is not copied here as the same appears on pages 2503 to 2512 inclusive of the printed record in this cause certified herewith under a separate certificate.

And on the same day, to wit, the 21st day of July 1938, there was filed in the office of the Clerk of this Court a statement of docket entries, which said statement of docket entries is in the words and figures following, to wit:

District Court of the United States for the Western District of Wisconsin

(Caption D. C. 11365)

STATEMENT FROM THE DOCKET ENTRIES

1. Indictment for unlawful combination and conspiracy in restraint of trade in violation of Section 1 of the Act of Congress of July 2, 1890, known as the Sherman Anti-Trust Act, filed December 22, 1936.

2. Arraignments March 3, 1937, as follows: Socony-Vacuum Oil Company, Inc.; Continental Oil Company; The Pure Oil Company; Shell Petroleum Corporation; Sinclair Refining Company; Mid-Continent Petroleum Corporation; Phillips Petroleum Company; Skelly Oil Company; The Globe Oil & Refining Co., Oklahoma; The Globe Oil & Refining Co., Illinois; Wadhams Oil Company; Empire Oil and Refining Company (Now Cities Service Oil Company); Charles E. Arnott; H. T. Ashton; P. E. Lakin; Robert W. McDowell; R. H. McElroy, Jr.

3. Pleas to Indictment entered March 3, 1937, as follows: Socony-Vacuum Oil Company, Inc.—not guilty; Continental Oil Company—not guilty; The Pure Oil Company—not guilty; Shell Petroleum Corporation—not guilty; Sinclair Refining Company—not guilty;

Mid-Continent Petroleum Corporation—not guilty; Phillips Petroleum Company—not guilty; Skelly Oil Company, not guilty; The Globe Oil & Refining Co., Oklahoma—not guilty; The Globe Oil & Refining Co., Illinois—not guilty; Wadhams Oil Company—not guilty; Empire Oil and Refining Company (Now Cities Service Oil Company)—not guilty; Charles E. Arnott—not guilty; H. T. Ashton—not guilty; P. E. Lakin—not guilty; Robert W. McDowell—not guilty; R. H. McElroy, Jr.,—not guilty.

4. Motion to withdraw plea of guilty denied * * * 193 * * * None.

5. Trial by Jury, October 4, 1937, to January 22, 1938.

6. Verdicts of Guilt by the jury for the following defendants filed January 22, 1938: Socony-Vacuum Oil Company, Inc.; Continental Oil Company; The Pure Oil Company; Shell Petroleum Corporation; Sinclair Refining Company; Mid-Continent Petroleum Corporation; Phillips Petroleum Company; Skelly Oil Company; The Globe Oil & Refining Company, Oklahoma; The Globe Oil & Refining Company, Illinois; Wadhams Oil Company; Empire Oil and Refining Company (Now Cities Service Oil Company); Charles E. Arnott; H. T. Ashton; P. E. Lakin; Robert W. McDowell; R. H. McElroy, Jr.

7. Judgements (with terms of sentence) * * * entered July 19, 1938, for the defendants as follows: Socony-Vacuum Oil Company, Inc., $5,000 fine and costs; Charles E. Arnott, $1,000 fine; H. T. Ashton, $1,000 fine; Wadhams Oil Company, $5,000 fine and costs; Empire Oil and Refining Company (Now Cities Service Oil Company), $5,000 fine and costs; Continental Oil Company, $5,000 fine and costs; The Pure Oil Company, $5,000 fine and costs; R. H. McElroy, Jr., $1,000 fine; Shell Petroleum Corporation, $5,000 and costs; P. E. Lakin, $1,000 fine; Sinclair Refining Company, $5,000 fine and costs; Mid-Continent Petroleum Corporation, $5,000 fine and costs; Robert W. McDowell, $1,000 fine; Phillips Petroleum Company, $5,000 fine and costs; Skelly Oil Company, $5,000 fine and costs; The Globe Oil and Refining Company (Oklahoma), $5,000 fine and costs; The Globe Oil and Refining Company (Illinois), $5,000 fine and costs.

8. Notice of Appeals severally filed July 20, 1938, by the following defendants: Socony-Vacuum Oil Company, Inc.; Continental Oil Company; The Pure Oil Company; Shell Petroleum Corporation; Sinclair Refining Company; Mid-Continent Petroleum Corporation; Phillips Petroleum Company; Skelly Oil Company; The Globe Oil and Refining Company (Oklahoma); The Globe Oil and Refining Company (Illinois); Wadhams Oil Company; Empire Oil and Refining Company (Now Cities Service Oil Company); Charles E.

Arnott; H. T. Ashton; P. E. Lakin; Robert W. McDowell; R. H. McElroy, Jr.

Dated July 20th, 1938.

Attest. (Signature) H. C. HALE, *Clerk.*

Filed U. S. C. C. A.-7, July 21, 1938. Frederick G. Campbell, *Clerk.*

And on the same day, to wit, the 21st day of July 1938, there was filed in the office of the Clerk of this Court a notification by the trial clerk of the filing of a notice of appeal, which said notification is in the words and figures following, to wit:

District Court of the United States for the Western District of Wisconsin

(Caption D. C. 11365)

NOTIFICATION BY TRIAL CLERK TO APPELLATE CLERK OF FILING OF NOTICE OF APPEAL

To: THE CLERK OF THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT:

Pursuant to Rule 31, IV, paragraph 1 of the Rules of the United States Circuit Court of Appeals for the Seventh Circuit, in connection with the case of United States v. Standard Oil Company (Indiana) et al., No. 11365, in the District Court of the United States for the Western District of Wisconsin, I am forwarding herewith to you this 20th day of July 1938, the following papers:

(1) Duplicate notice of appeals filed severally by the appellants named therein in the above entitled case;

(2) A statement from the docket entries in the above case on Form No. 3.

Will you please acknowledge receipt of the above papers.

(Signature) H. C. HALE,
Clerk of the District Court of the United States
For the Western District of Wisconsin.

Filed U. S. C. C. A.-7, July 21, 1938. Frederick G. Campbell, Clerk.

And on the same day, to wit, the 21st day of July 1938, an order allowing 120 days for filing the bill of exceptions, and relative to preparation of the transcript of record, was entered, which said order is not copied here as the same appears on pages 2589 to 2590, inclusive, of the printed record in this cause certified herewith under a separate certificate.

And afterwards on, to wit, the 12th day of August 1938, there was filed in the office of the Clerk of this Court a motion to consolidate

appeals, which said motion is in the words and figures following to wit:

In the United States Circuit Court of Appeals for the Seventh Circuit

No. 6721. October Term, 1937

UNITED STATES OF AMERICA, PLAINTIFF-APPELLEE

vs.

STANDARD OIL COMPANY (INDIANA) ET AL., DEFENDANTS-APPELLANTS

Appeal from the District Court of the United States for the Western District of Wisconsin

Honorable PATRICK T. STONE, District Judge.

Motion to consolidate appeals

Filed August —, 1938

Now comes each of the defendants-appellants in the cause above-entitled, to wit: Socony-Vacuum Oil Company, Inc., Charles E. Arnott, H. T. Ashton, Wadhams Oil Company, Empire Oil and Refining Company (now Cities Service Oil Company), The Pure Oil Company, Continental Oil Company, R. H. McElroy, Jr., Shell Petroleum Corporation, P. E. Lakin, Sinclair Refining Company, Mid-Continent Petroleum Corporation, Robert W. McDowell, Phillips Petroleum Company, Skelly Oil Company, The Globe Oil and Refining Company (Oklahoma), and The Globe Oil and Refining Company (Illinois), by their attorneys, and moves the Court that the separate appeals taken by each defendant-appellant, by the notice of appeals filed severally by each defendant-appellant in this court on July 31, 1938, be consolidated in this Court under the title and number set forth (1) for the purpose of argument, hearing, and other proceedings in this Court, except that separate judgments and mandates in each appeal may be rendered and entered by this Court, and (2) for the purpose of preparing and filing a single praecipe for transcript of record, a single assignment of errors, a single bill of exceptions and transcript of record, and single appellate procedural papers of other kinds in this Court on behalf of all the defendant-appellants to serve for all intents and purposes and treated as separately filed by each defendant-appellant.

In support of said motion, each defendant-appellant shows to the Court:

(1) The defendants-appellants were all tried together under one indictment for conspiracy to violate Section 1 of the Sherman Anti-Trust Act. The jury rendered a separate verdict of guilty as to each

defendant-appellant. The trial judge entered on one paper a judgment severally sentencing each of the appellants.

(2) Each defendant-appellant took an appeal from the judgment or sentence entered as to him or it by the notice of appeals on one paper filed severally by each defendant-appellant. Such notice of appeals has been duly filed in the District Court and in this Court. The separate appeals aforesaid taken by each of the defendants-appellants have been docketed in this Court under one docket number, No. 6721, and are now pending. The United States is the plaintiff-appellee in each appeal.

(3) The District Court on July 20, 1938, after the notice of appeals had been duly filed in that Court, entered an order providing, among other things, (a) that the appellants may file a single assignment of errors, (b) that the several appeals may be presented to the Circuit Court of Appeals on one transcript of record, and (c) that the appellants file an appeal bond in the amount of $25,000, which bond has been duly approved by the District Court and filed therein.

(4) This Court on July 21, 1938, entered an order providing, among other things, (a) that the appellants are granted 120 days to file the bill of exceptions, (b) that the appellants may file a single assignment of errors, (c) that the appellants may file the praecipe of transcript within 30 days; and (d) that the record on appeal shall be filed within 60 days.

(5) The appeals filed by each of the defendants-appellants are of like nature, and substantially all of the questions involved in each appeal are identical. The consolidation of these appeals for the purposes above stated will avoid unnecessary costs, labor, and duplications of appeal papers. The appeals here can be properly and adequately considered upon a single record, bill of exceptions, and assignment of errors. The granting of this motion will greatly simplify the appeal record and will expedite the hearing and consideration of these appeals by this Court.

Wherefore, each of the defendants-appellants respectfully prays that this motion to consolidate for the purposes above stated be granted.

Dated August 11, 1938.

(S) William J. Donovan,
(S) Herbert H. Thomas
Attorneys for each Defendant-Appellant.

And afterwards on, to wit, the 13th day of August 1938, an order consolidating appeals, etc., was entered, which said order is not copied here as the same appears on pages 2590 and 2591 of the printed record in this cause certified herewith under a separate certificate.

At a regular term of the United States Circuit Court of Appeals for the Seventh Circuit, held in the City of Chicago, and begun on the Fourth Day of October, in the Year of our Lord One Thousand

Nine Hundred and Thirty-Eight, and of our Independence the One Hundred and Sixty-Third.

And afterwards on, to wit, the 2nd day of November 1938, an order clarifying the order of July 21, 1938, was entered, which said order is not copied here as the same appears on page 2592 of the printed record in this cause certified herewith under a separate certificate.

And afterwards on, to wit, the 7th day of November 1938, an order was entered providing that reference may be made in the assignment of errors to page numbers of the evidence in lieu of quoting the evidence at length, which said order is not copied here as the same appears on page 2593 of the printed record in this cause certified herewith under a separate certificate.

And afterwards on, to wit, the 1st day of December 1938, an order was entered providing that certain alleged errors may be included in one assignment of errors, etc., which said order is not copied here as the same appears on pages 2593 and 2594 of the printed record in this cause certified herewith under a separate certificate.

And afterwards on, to wit, the 19th day of December 1938, there was filed in the office of the Clerk of this Court the bill of exceptions in this cause, which said bill of exceptions is included in the printed record in this cause certified herewith under a separate certificate.

And on the same day, to wit, the 19th day of December 1938, there was filed in the office of the Clerk of this Court an assignment of errors, which said assignment of errors is not copied here as the same appears on pages 2515 to 2575, inclusive, of the printed record in this cause certified herewith under a separate certificate.

And afterwards on, to wit, the 21st day of December 1938, there was filed in the office of the Clerk of this Court a stipulation to correct page references in the printed record, which said stipulation is not copied here as the same appears on page 2594 of the printed record in this cause certified herewith under a separate certificate.

And afterwards on, to wit, the 15th day of May 1939, the following further proceedings were had and entered of record, to wit:

In the United States Circuit Court of Appeals for the Seventh Circuit

Monday, May 15, 1939

Before Hon. WILLIAM M. SPARKS, Circuit Judge; Hon. J. EARL MAJOR, Circuit Judge; Hon. OTTO KERNER, Circuit Judge.

(Caption No. 6721.)

Now this day come the parties by their counsel, and this cause comes on to be heard on the transcript of the record and the briefs of counsel, and on oral argument by Messrs. William J. Donovan and Herbert H. Thomas, counsel for appellants, and by Mr. John Henry Lewin, counsel for appellee, and the oral argument having not been concluded, the hearing is continued to 9:30 o'clock tomorrow morning.

And afterwards on, to wit, the 16th day of May 1939, the following further proceedings were had and entered of record, to wit:

In the United States Circuit Court of Appeals for the Seventh Circuit

Tuesday, May 16, 1939

Before Hon. WILLIAM M. SPARKS, Circuit Judge; Hon. J. EARL MAJOR, Circuit Judge; Hon. OTTO KERNER, Circuit Judge.

(Caption No. 6721.)

Now this day come the parties by their counsel, and this cause comes again comes on to be heard on the transcript of the record and the briefs of counsel, and on oral argument by Messrs. Charles H. Weston and Grant W. Kelleher, counsel for appellee, and by Mr. William J. Donovan, counsel for appellants, and the arguments having been concluded, the Court having heard the same takes this matter under advisement.

In the United States Circuit Court of Appeals for the Seventh Circuit

No. 6721. October Term, 1938, April Session, 1939

THE UNITED STATES OF AMERICA, PLAINTIFF-APPELLEE

vs.

SOCONY-VACUUM OIL COMPANY, INC., ET AL., DEFENDANTS-APPELLANTS

Appeal from the District Court of the United States for the Western District of Wisconsin

July 27, 1939

Before SPARKS, MAJOR, and KERNER, Circuit Judges.

MAJOR, Circuit Judge: These are several appeals from judgments of conviction by the District Court for the Western District of Wisconsin for violation of Section 1 of the Sherman Antitrust Act (Act of July 2, 1890, 26 Stat. 209 U. S. C. A., Title 15, Sec. 1). Appellents are twelve corporations and five of their officers and employees.[1] The

[1] The corporate appellants and their abbreviated names as described in the indictment are as follows: Socony-Vacuum Oil Company, Inc. (Socony-Vacuum); Wadhams Oil Company (Wadhams); Empire Oil Refining Company (Empire); Continental Oil Company (Continental); The Pure Oil Company (Pure); Shell Petroleum Corporation (Shell); Sinclair Refining Company (Sinclair); Mid-Continent Petroleum Corporation (Mid-Continent); Phillips Petroleum Company (Phillips); Skelly Oil Company (Skelly); The Globe Oil & Refining Company (Oklahoma) (Globe); The Globe Oil & Refining Company (Illinois) (Globe).

The individual appellants are Charles E. Arnott and H. T. Aston, of Socony-Vacuum; R. M. McElroy, Jr., of Pure; P. E. Larkin, of Shell; and Robert W. McDowell, of Mid-Continent.

indictment was returned on December 22, 1936, against twenty-four corporations engaged in the petroleum business (called "defendant major oil companies") three trade journals, and fifty-six individuals, principally officers and employees of the defendant corporations.[3] On October 4, 1937, twenty-three of the corporations, the three trade journals, and forty-six individuals were brought to trial, which continued over three and one-half months before a jury.

At the close of its case, the Government dismissed the indictment as against four major companies, the three trade journals, and one individual.[4] The court, at the same time, directed verdicts for three corporations[5] and four of their officers and employees. During the course of the trial the court granted motions for directed verdicts on behalf of eleven other individual defendants. The jury on the 22nd day of January 1938, returned verdicts of guilty against the remaining sixteen corporations and thirty individuals.

On July 19, 1938, the trial court set aside the verdicts and dismissed the indictment as to ten of the convicted individuals and one of the convicted corporations. The court also granted new trials to fifteen individuals and three corporations,[6] and sustained the verdicts of the jury against the remaining twelve corporations and five individuals, appellants herein.

THE INDICTMENT

The indictment describes the states of Michigan, Wisconsin, Minnesota, North Dakota, South Dakota, Iowa, Illinois, Indiana, Missouri, and Kansas as the market territory of defendant Standard of Indiana, sometimes known as the "Standard of Indiana Territory" by reason of said defendants' dominant position in the distribution of gasoline in each of said states. The territory is also described as the Mid-Western area. Each of the defendant major oil companies, so it is alleged, either directly or through subsidiary or affiliated companies markets gasoline in some or all of the states of such area. It is charged that the defendant companies manufacture and distribute to jobbers, dealers, and consumers more than 85% of all the gasoline sold therein. It is alleged that the jobbers therein, some 4,000 or more, sell more than 50% of all the gasoline sold to retail service stations and that the defendant companies supply more than 80% of the gasoline purchased by those jobbers.

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[3] All parties named in the indictment are referred to in the briefs as "defendants" as distinguished from defendants who are now appellants, and we shall make similar designation in this opinion.

[4] The four major oil companies were Tide Water Associated Oil Company, Deep Rock Oil Corporation, Louisiana Oil and Refining Company, and Cities Service and Export Oil Company. The reason assigned for dismissal as to the first was that the evidence showed the activities charged by the indictment were carried on by its predecessor company and as to the other three, either that their affairs were in the hands of a trustee during the period of the conspiracy or that they had been dissolved. The indictment as to the three trade journals and one of their officers was dismissed because of the legal insufficiency of the evidence to connect those defendants with the alleged conspiracy.

[5] Gulf Oil Corporation, Gulf Refining Company, and the Texas Company.

[6] United States v. Standard Oil Company (Ind.) et al., 23 Fed. Supp. 937. The names of such defendants are set forth in this opinion, together with the court's reason for its action.

During the period of the conspiracy and for many years prior thereto, jobbers purchased gasoline from the defendant companies under long-term supply contracts, which uniformly provided that the price of the gasoline purchased by the jobbers should be determined by the "spot" market prices as published by two trade journals, namely, The Chicago Journal of Commerce, published in Chicago, Illinois, and Platt's Oilgram, published in Cleveland, Ohio. It is alleged that the defendant companies also distribute gasoline through retail dealers and directly to consumers through their own retail service stations, and that retail prices in the Mid-Western area are directly and substantially influenced by, and fluctuate directly with, the "spot" market price.

The indictment alleges that the defendant companies do not sell any substantial part of their gasoline on the "spot" markets. Independent refiners, located in the Mid-Continent and East Texas oil fields, sell most of the gasoline sold on a "spot" basis and the prices received therefor make the "spot" market quotations which are published each day in the market journals. It is alleged that this gasoline amounts to less than 5% of all the gasoline marketed in the Mid-Western area.

It is alleged that, beginning in the month of February 1935, and continuing to the date of the presentation of the indictment, the defendants combined and conspired together for the purpose of artificially raising and fixing the tank-car prices of gasoline in the "spot" markets, and artificially raised and fixed said "spot" market tank-car prices of gasoline, and maintained said prices at artificially high and noncompetitive levels and thereby increased and fixed the tank-car prices of gasoline in the Mid-Western area (including the western district of Wisconsin) and arbitrarily, by reason of the provisions of the jobber contracts, exacted large sums of money from jobbers with whom such contracts were made. Thus, the defendants are charged with an unlawful combination and conspiracy in restraint of trade and commerce in gasoline in violation of the Sherman Anti-trust Act.

Then follows the manner and means by which the conspiracy was effectuated. It is alleged that, beginning in the month of February, 1935, the defendants engaged and participated in two concerted gasoline-buying programs, described as the East Texas and Mid-Continent buying programs, for the purchase by them of large quantities of gasoline from independent refiners in the East Texas and Mid-Continent fields. The independent refiners selling in the programs are named as co-conspirators, but not as defendants. The substance of the buying programs, as alleged, is that the defendants by their agents and representatives, purchased large quantities of gasoline in accordance with allocations made to the various major companies and that such purchases amounted to nearly 50% of all the gasoline sold by said independent refiners; that such purchases were in excess of the amounts which the defendant companies would

have purchased apart from their participation in said buying program, and that said purchases were made at uniformly high, arbitrary, and noncompetitive prices for the unlawful purpose of increasing the "spot" tank-car price. It is also alleged that the independent refiners, at the instigation of the defendants, curtailed their production of gasoline.

Then follows a paragraph with reference to the "participation of market journals." It is alleged that such journals (theretofore named), together with certain of their officers, participated in the combination and conspiracy, and aided the other defendants in effectuating the same. The market journals are described as "the Chief agencies and instrumentalities through which the wrongfully and artificially raised and fixed prices for gasoline paid by the major oil companies have affected the prices paid by jobbers, retail dealers, and consumers for gasoline in the Mid-Western area." It is alleged that the quoted price published in said market journals was represented to be the price prevailing in "spot" sales to jobbers in tank-car lots when, as a matter of fact, the quotations thus published were the artificially raised and fixed prices paid by the defendant companies in the buying programs.

The indictment then concludes with a paragraph entitled "Jurisdiction and Venue" wherein it is alleged that the defendant companies sold large quantities of gasoline in tank-car lots to jobbers within the western district of Wisconsin at the artificially raised and fixed and noncompetitive prices, and that retail dealers and consumers in said district have been required to pay artificially increased prices for gasoline by reason of the combination and conspiracy and pursuant to the purposes and ultimate objectives thereof.

STATEMENT OF FACTS

The record, as might be expected, is voluminous, and we find it difficult to compress the relevant facts in an opinion of reasonable length. The difficulty is increased by the widely disagreeing views of the respective parties as to what the essential facts are. At this point we shall only undertake to review what seem to be the more salient, leaving to a subsequent time facts material in connection with the numerous questions which are presented.

This case is concerned primarily with the marketing of gasoline in the Mid-Western area. (Indictment territory.)* In normal times this area is supplied chiefly with gasoline refined from crude oil produced in the Mid-Continent oil fields. Over 21% of all the gasoline sold in the United States in 1935, amounting to almost five billion gallons, and over 25% in 1936, amounting to nearly five and one-half billion gallons, was sold in this territory.

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*The Mid-Western area is also referred to and described in the indictment as "Standard of Indiana territory." At the time of the indictment Standard of Indiana controlled about 22% of the business, was doing more business than any one of its competitors and was known as the "market leader" in that territory.

The oil industry has four primary functions: (1) producing crude oil from the earth; (2) transporting it to refineries; (3) refining it into commercial products; and (4) marketing the products. In the marketing process there are usually three units: the refiner, the jobber, and the dealer. The refiner produces the gasoline; the jobber purchases it from the refiner in tank-car lots, stores it in bulk-storage plants, and resells it to the dealer in tank-wagon lots.

A major oil company is one engaged in all branches of the industry. It produces and stores substantial amounts of crude oil, refines a substantial part of the gasoline which it sells, and owns large amounts of gasoline storage capacity at the refinery. It operates bulk storage plants in the marketing area from which gasoline can be distributed by tank wagons to retailers. In most instances it operates service stations where its product is sold at retail. Most of the corporate defendants in this case are major oil companies. An independent refiner, as described in the indictment, is one engaged largely in the business of refining, usually has few, if any, bulk storage plants, and seldom operates service stations. The independent refiners far exceed the major companies in number, but their business is comparatively small. Some eighteen major companies sell about 85% of the gasoline consumed in the Mid-Western area, while some seventy independent refiners sell only 15%. Appellants marked about 54% of the gasoline sold in this territory in 1935. Over 25% was sold by Texas, by Standard of Indiana, and Barnsdall. A jobber is a "middle man" who purchases gasoline in tank-car lots, generally from refiners, and owns storage or bulk plants from which he delivers gasoline in tank wagons or trucks to service stations or directly to large consumers. In 1935 and 1936 there were more than 4,000 jobbers doing business in the Mid-Western area.

At the time the indictment was returned and for many years prior thereto, most jobbers purchased their gasoline in tank-car lots under contracts in which they agreed to purchase, generally for a period of one year, all their gasoline requirements from a single refinery. The defendants prescribed the form of contract made by jobbers purchasing from them. These contracts varied somewhat in form, but generally the price to be paid by virtue of the contracts was upon the basis of what was known as "spot market quotations" appearing daily in one or both of the two defendant trade journals. The price was determined by averaging the high and low "spot" market quotations as they appeared therein. The contracts usually recognized the Standard of Indiana as the market leader in the territory and contained a provision to the effect that the buyer was to have a margin of 5½¢ per gallon under the service station price as posted by that company. The retail service station prices posted by that company were also followed by jobbers, refiners and retailers. The selling price fixed by that company, as well as by all others, bore a direct relation to the "spot" market quotations during the indictment period.

The normal retail price was usually 5½¢ per gallon more than the "spot" market price.

The daily "spot" market is determined by sales for that day in private transactions at refineries in the field. The principal part of the gasoline on such market is sold by the independent refiners and constitutes from 5% to 7½% of all gasoline sold in the Mid-Western area. The major companies, by reason of storage facilities and their own means of disposing of gasoline, have a more assured outlet than the independent refiners who must depend largely on the "spot" tank-car market. The major companies frequently were required to purchase from the independent refiners prior to the time of the buying programs hereinafter referred to.

Thus the Government contends that at the beginning of the indictment period and continuing through 1935 and 1936, the prices at which the defendants sold the great bulk of their gasoline were directly controlled and determined by prices received by independent refiners of a relatively small amount of gasoline by reason of the following:

(1) The prices of all gasoline sold by the defendants to jobbers under contract were based upon the spot market quotations as published by the two trade journals.

(2) The prices of all gasoline sold at retail by the defendants were based upon the same spot market quotations.

(3) The spot market prices published in the journals were the result of spot sales by independent refiners of gasoline amounting to not more than 7½% of all the gasoline sold in the Mid-Western area.

Prior to a statement concerning the alleged unlawful buying programs, it seems appropriate to refer to the history of the oil industry during the two-year period prior to the indictment, and the efforts during that time to rehabilitate and stabilize the same, upon which appellants lay great stress.

Many pages of the briefs are thus occupied and again we do not find it easy to condense such a statement and do justice to both sides. It is plainly apparent that for several years prior to the alleged conspiracy, the gravest problem confronting the oil industry was the overproduction of crude oil, which inevitably resulted in an oversupply of gasoline. This meant a decline in prices often below the cost of production. As new fields were developed the problem became more acute. Both State and Federal Governments actively engaged themselves in attempting to remedy and solve the problems in various ways, such as curtailment of production, buying programs, and the fixing of prices at which crude oil could be sold. The States of Texas, Oklahoma, and Kansas passed proration laws limiting production. Crude oil produced in violation of such laws became known as "hot oil" and the gasoline manufactured therefrom, as "hot gasoline." The states had little success in the enforcement of such laws and as a result legal gasoline was at a great disadvantage in

meeting competition. Out of this situation grew price wars of much concern to Governmental agencies, which resulted in great loss to all branches of the industry engaged in the legitimate field.

Beginning in March 1933, the Federal Government, the interested states, and the industry joined in a general movement to eliminate such destructive practices and to restore healthy competitive conditions. The record sustains appellants' statement that it was sought to accomplish three principal objectives:

(1) The restoration of the price of crude oil to a minimum of $1.00 per barrel. That was the minimum price at which the vast majority of the crude-oil wells of the country could operate.

(2) The restoration of the price level of gasoline at wholesale at the refinery to "parity" with crude oil; that is, a price which would reflect the normal relation between the price of gasoline and the price of crude oil from which it is manufactured.

(3) The stabilization of retail prices at a normal spread or margin between the refinery price of gasoline and the retail price.

In June 1933, Congress passed the National Industrial Recovery Act which authorized the President to forbid the interstate shipment of oil or gasoline produced or manufactured in violation of state proration laws. On July 11, 1933, the President, by Executive proclamation, forbade such shipments. Under this Act a Code was formulated prohibiting sales below cost, defining the natural parity relationship between the price of a barrel of crude oil and a gallon of refined gasoline as 18.5 to 1, and authorized the fixing of minimum prices for crude oil and its products. The President appointed the Secretary of the Interior to be the Administrator of such Code, and the Secretary selected members of his staff, known as the Petroleum Administrative Board. A committee, known as the Planning and Coordination Committee, to aid in the administration of the Code, was appointed by the President. In addressing this committee in September 1933, the Secretary of the Interior said:

"Gentlemen, we have a solemn duty to perform. Our task is to stabilize the oil industry upon a profitable basis. This is the keen desire of the Administration and we will work with you constantly to that end * * *."

By September 29, 1933, the price of crude oil was established at $1.00 per barrel and that was the minimum price maintained throughout the Code period. On one occasion the Secretary approved an order fixing minimum prices based upon the cost of production and manufacture for crude oil, gasoline and other petroleum products, but this order never became effective. In April 1934, an amendment to the Code was adopted under which an attempt was made to balance supply and demand of the refined product by allocating the amount of crude oil which each refiner could process. The Government sponsored various buying programs wherein the major companies contracted to relieve the independent refiners of their surplus gasoline at prices above the going market. It appears that these

programs were later suspended because of doubtful legality. "Hot oil" constituted the chief stumbling block to the success of the various programs. Refiners in the field could procure such oil for 35¢ or less a barrel, and manufacture gasoline therefrom for 2¢ or 2½¢ a gallon, while the parity price based upon $1.00 oil was from 5¢ to 6¢.

Another term which finds much use in this case is "distress gasoline." This is described by appellants as legal gasoline manufactured by independent refiners who had to dump it on the market for whatever price it would bring. It is pointed out that the purchase contract of the independent refiner required him to take all the crude oil which the seller was permitted by law to produce. Any cessation of his refinery operations would result in the loss of his crude oil connections. Thus he was compelled to manufacture gasoline regardless of the demand. The Government contends that the term "distress gasoline" is a misnomer and that it constituted nothing more than a surplus.

In July 1934, members of the Petroleum Administrative Board called on appellant Arnott, Chairman of the Marketing Committee of the Planning and Coordination Committee, and requested that he undertake the responsibility of heading a voluntary cooperative movement to deal with price wars. This he agreed to do, pointing out that it would be necessary to eliminate "hot oil" and "distress gasoline." Under date of July 20, 1934, Arnott received a letter from the Secretary of the Interior which, after reviewing the price wars existing in many localities and the resultant effect which they were having upon the market for oil products, pointed out that the existing conditions would tend to frustrate the purposes of the National Industrial Recovery Act by increasing unemployment, reducing standards of labor; and preventing the rehabilitation of the industry. Arnott was authorized to confer, negotiate and hold public hearings for the purpose of stabilizing the price level. In October 1934 a "Federal Tender Board" was appointed by the Secretary of the Interior for the purpose of preventing shipment in interstate commerce of "hot oil" and "hot gasoline." Thereafter, oil or gasoline could only be shipped in interstate commerce when accompanied by a certificate or tender issued by the Board certifying as to the legality of its production or manufacture. This action had its immediate effect, increasing the "spot" market tank-car price of gasoline by 1⅜¢. The Tender Board was stripped of its authority by the decision of the court in Panama Refining Company v. Ryan, 293 U. S. 388. To meet the emergency thus created, Congress, in February 1935, passed the Connally Act which again prohibited the shipment in interstate commerce of "hot oil" and "hot gasoline," and again the price of gasoline rapidly increased.

We shall now discuss the alleged unlawful buying programs. The formation and operation of the Mid-Continent program is not in dispute. Appellants (with the exception hereinafter noted) admit that they participated in a concerted program for the purchase of

gasoline from independent refiners in the Mid-Continent fields at "going market prices" from March 1935 to May 1936, for the purpose of stabilizing the tank-car market. The program was organized at a series of meetings held during the first three months of 1935. The first meeting, called by appellant Arnott and attended by all of the appellants, was held in Chicago, January 4, 1935. At this meeting a committee was appointed called the "Tank-car Stabilization Committee," consisting of eight representatives of the defendant companies, including appellants Ashton and McDowell. The situation confronting the industry was discussed at this meeting and it was generally conceded that the gains achieved in stabilizing the retail market could not be maintained unless some action was taken with reference to "distress gasoline." The Stabilization Committee had three meetings—one on February 5th in Chicago, another on February 11th in Chicago, and the third on March 5th in St. Louis, Missouri. Without going into detail as to what took place at these meetings, we think the substance of what was accomplished and agreed upon was that the major companies would purchase from the independent refiners the laters' surplus gasoline at going market prices. Surveys disclosed that this surplus gasoline of the independent refiners in the Mid-Continent fields amounted to from 600 to 700 cars each month. Defendant Bourque was designated to make surveys with the view of ascertaining the amount of surplus gasoline and furnishing such information to the defendant companies. A mechanical subcommittee consisting of one Jacobi, the appellant McDowell, and the defendant Tuttle, was appointed to assist in the disposal of surplus gasoline not anticipated by the monthly surveys. It was also a part of the function of this subcommittee to urge companies to pay the fair going market price. The plan was a voluntary one and we find nothing in the record to indicate that anyone participating in the program was to be enpalized for noncompliance therewith. The independent refiners who sold to the defendants in the program met with the defendants and agreed to cooperate.

The program commenced operation on March 7, 1935. During that month between 500 and 600 cars were purchased by the defendants, and thereafter, continuing through April 1936, their purchases amounted to between 600 and 800 cars per month. The Tank-car Stabilization Committee held monthly meetings at which the surveys with reference to surplus gasoline were considered. There is evidence to the effect that the committee recommended the amount which each company should purchase and that the companies felt a moral obligation to comply therewith. The Mechanical Sub-Committee also met frequently and was in frequent contact with the purchasing companies, oftentimes urging them to increase the amount of their purchases. The defendant companies reported monthly to Bourque the volume of purchases and the prices paid in connection therewith. Although there is evidence that the defendants in some instances purchased more gasoline than they actually required,

it was all disposed of in the usual channels of trade. There is evidence, rather indefinite and uncertain, that certain employees of the purchasing companies considered that allocations were being made along lines similar to those which had been made under the Code, and that the companies were obligated with respect to such allocations; but the record is far from convincing in this respect. The Tank-car Stabilization Committee was concerned with the price at which purchases were to be made, but it seems the committee was chiefly interested with prices not below the going market price. In fact, no purchases were made above that price and prices actually paid to the independent refiners varied considerably. This was especially true during March 1935, when three of four different prices were paid on the same day by the purchasing companies. More than one price was paid on 72% of a certain number of days on which purchases were made in the early part of the alleged conspiracy. The evidence concerning the amount of gasoline purchased by the defendants varies widely. The Government contends that from 34% to 51% in 1935, and from 38% to 58% in 1936, of all the gasoline sold on the "spot" market by the Mid-Continent independent refiners named in the indictment, and from approximately 20% to 30% during both years of all the gasoline sold on such market by twenty-nine independent refiners in the Mid-Continent field was purchased by the defendants; while defendants contend that the total amount purchased from the independent refiners was from 18% to 27%. The Government contends there is evidence to sustain the allegation that the independent refiners "curtailed their production of gasoline," while appellants contend to the contrary.[7]

The fact is undisputed that the production of the independent refiners in 1935, over the previous year, was from 17% to 21% greater, and that in 1936 the production was 12% greater than in 1935. The Government points out that this situation is deceptive, inasmuch as production was curtailed under the Code during 1934 and the first five months of 1935.

The East Texas buying program referred to in the indictment may be described more briefly. Early in 1935, certain independent refiners in East Texas formed an association called the East Texas Refiners Marketing Association. The purpose of this association was to find a market for its surplus gasoline, and in an effort to accomplish this purpose it contacted certain of the officials interested in the Mid-Continent program. Previous to this time the East Texas refiners had sold only a small part of their product in the Mid-Western area. Shortly thereafter, certain of the defendant companies commenced purchasing through the association and purchased an average of 600 to 700 cars monthly. The purpose of this buying program was similar to that of the Mid-Continent, i. e., for the purpose of stabilizing the gasoline market.

[7] This matter is discussed later and we conclude that there is no competent evidence in support of the allegation.

The defendants evidently realized the importance of buying the surplus product from the Texas field if their effort in the Mid-Continent field was to succeed. This program, like the other, contemplated the purchase of gasoline at fair going market prices and the prices paid generally coincided with the low quotations of Platt's Oilgram. We think it is fair to state, however, that this program was largely under the control of the Secretary of the East Texas Association, and that the program has more of the earmarks of a seller's program by that association than a buyer's program by the defendants. Here again the evidence is in conflict as to the amount purchased—the Government contending that in 1935 the defendants purchased 20% of the total production of all the independent refiners in the East Texas field, while defendants contend that it was about 12%.

It is the contention of the Government that the buying program produced an artificial and noncompetitive condition of the tank-car market during the indictment period. We shall reserve discussion of this contention to a later time. The fact is, however, there was a consistent rise in price from March to May of 1935. The increase amounted to about 1½¢ per gallon between February and June 1st, and from that time until the end of 1935 the price level remained firm, with only slight deviations. The increase in price was attributed by numerous witnesses to the buying programs, although there is substantial evidence that other factors contributed to such increase. In the early part of January 1936 prices were advanced ½¢ in conformity with a comparable advance in the price of crude oil.

CONTESTED ISSUES

Of the many contested issues and assignments of error, we shall only undertake to discuss those which have been argued by the respective parties. Such issues stated by appellants in the affirmative, the Government contending to the contrary as to each, are:

1. There was a total failure of proof as to the essential allegation of the indictment, namely, that the defendants conspired to fix the spot-market price of gasoline by purchasing gasoline under two buying programs at high, artificial, and agreed-on prices and causing such prices to be published in the trade journals and falsely representing them as spot-market prices paid by jobbers in purchasing gasoline from independent refiners.

II. There was a material and prejudicial variance between the charge of the indictment and the issues on which the case was permitted to go to the jury.

III. The court committed reversible error in overruling the defendants' motions for directed verdicts.

IV. The trial court committed prejudicial error by (a) improperly limiting the extent to which the jury could consider the facts and circumstances surrounding the defendants' activities, and (b)

instructing the jury that an agreement embracing the raising of prices by a group controlling a substantial amount of the trade in a commodity is illegal per se. By so doing the court, in effect, directed a verdict against the defendants.

V. The court committed prejudicial error in excluding the evidence offered by the defense as to the facts and circumstances surrounding the alleged agreement in restraint of trade.

VI. The District Court for the Western District of Wisconsin had no jurisdiction to try these defendants because the proof failed to establish that any overt act was committed within the Western District of Wisconsin.

VII. The court erred in the admission of evidence.

VIII. The court erred and abused its discretion in denying the several motions of defendants for a new trial.

IX. The trial court committed reversible error in using and permitting Government counsel to use alleged transcripts of testimony before the grand jury in the examination of important witnesses.

X. The court committed reversible error in permitting Government counsel to make to the jury arguments which constituted appeals to passion, prejudice, and class distinction and tended to induce the jury to disregard the record evidence.

Before discussing the questions thus presented, we think it would be well to give consideration to a basic proposition, recognized as such by both parties, and about which revolve most of the questions concerning substantive law. The question: Does the proof disclose a violation of the Statute unlawful per se?

The position of the Government, forcibly presented, is that the purpose and effect of the conspiracy charged was to fix and control the market price of gasoline and that such a combination is unlawful per se; while on the other hand it is contended by the appellants with equal force that the purpose was merely the stabilization of the industry by the elimination of a competitive abuse, the admitted effect of which was to raise the price, and that such action was not within the condemning statute. The Government relies strongly upon the case of United States v. Trenton Potteries Co., 273 U. S. 392, and cases therein cited, while appellants place almost as great a reliance upon Appalachian Coals, Inc. v. United States, 288 U. S. 344, and the cases therein referred to. We shall first consider the Government's position.

The condemning statute (Act of July 2, 1890, 26 Stat. 209, U. S. C. A., Title 15, Sec. 1) provides that:

"Every contract, combination in the form of trust or otherwise, or conspiracy, in restrain of trade or commerce among the several States, or with foreign nations, is declared to be illegal."

The enactment generally was accepted as including every combination which placed any restraint upon interstate commerce until the decisions of the Supreme Court in Standard Oil Co. v. United States, 221 U. S. 1, and United States v. American Tobacco Co., 221 U. S.

106, wherein the now historic "rule of reason" was promulgated. The court, in the latter case, in referring to its opinion in the former, on page 179, said:

"It was therefore pointed out that the statute did not forbid or restrain the power to make normal and usual contracts to further trade by resorting to all normal methods, whether by agreement or otherwise, to accomplish such purpose."

The decisions of the courts, including the Supreme Court, thereafter may be said generally to divide themselves into two classes, namely: Those in which the restraint has been held unlawful per se and those in which the character of the restraint remained open for determination. In each class the restraint imposed upon trade was the object of attack and was determined largely by its effect upon competition. In the former class, those in the combination controlled such a large proportion of an industry as to give them the power to suppress or destroy competition, with the inevitable result that the restraint upon trade was unreasonable as a matter of law. In the latter class, where power to suppress or destroy competition is not shown, the restraint imposed is susceptible of investigation with a view of determining whether it is reasonable or otherwise.

A reading of the authorities is convincing that no hard and fast rule can be utilized in determining whether this or that case controls. As was said in Maple Flooring Ass'n v. United States, 268 U. S. 563, 579:

"It should be said at the ouset, that in considering the application of the rule of decision in these cases to the situation presented by this record, it should be remembered that this Court has often announced that each case arising under the Sherman Act must be determined upon the particular facts disclosed by the record, and that the opinions in those cases must be read in the light of their facts and of a clear recognition of the essential differences in the facts of those cases, and in the facts of any new case to which the rule of earlier decisions is to be applied."

A view of the instant situation, as favorable to the Government as the facts justify, discloses that defendants, by concerted effort, agreed to purchase on the "spot" market surplus gasoline for the purpose of raising the price on such market, thus enabling them to increase the market price in the Mid-Western area where the price bore a direct relation to the "spot" market price. The program involved the purchase of from 600 to 700 cars of gasoline per month in each of the buying programs. There seems to be no dispute but that this represented the amount of surplus—that is to say, the supply in excess of the regular demand. It also represented, according to the Government's contention, 20% to 30% sold on the "spot" market by independent refiners in the Mid-Western field and about 20% in the East Texas field, and according to appellants' contention, about 18% to 27% in the former field and 12% in the latter. Assuming that the Government's calculation is correct, it means that the program

called for the purchase of from one-fifth to nearly one-third of the gasoline sold by independent refiners in the former field and one-fifth in the latter. In this connection, it perhaps is pertinent to point out that gasoline sold on the "spot" market constituted only from 5% to 7½% of the gasoline sold in the indictment territory; that about 80% of all gasoline sold in the territory was sold by the defendants.* There was sold in the Mid-Western area in 1935, about five billion gallons of gasoline and in 1936, nearly five and one-half billions, which constituted in 1935 about 21% of the total amount of the products sold in the United States and about 25% in 1936. The record discloses that the plan was voluntary, without coercion, and with no penalty imposed for noncompliance with the recommendation made by the Tank-car Stabilization Committee. It is true that this committee recommended prices at which it was expected the purchases would be made, but these recommendations were based either upon the low or lower-than-the-spot-market quotations. Inasmuch as these quotations varied from day to day, the prices paid by the defendants in the buying program likewise varied.

A mere statement of these facts makes it plain that they present such a marked variance from those in the Trenton Potteries case as to make doubtful its applicability. In that case the indictment charged "a combination to fix and maintain uniform prices for the sale of sanitary pottery." The members of the combination included 82% of the manufacturers and distributors of such products in the United States. The combination agreed upon a definite price at which their products were to be sold. The essential argument urged upon the Supreme Court was that the case should have been submitted to the jury on the question as to the character of the restraint. It was argued that the price fixed was reasonable and, therefore, the restraint was not unreasonable. In holding to the contrary and that the combination was unlawful per se, the court approved of the charge given by the trial court, that "'* * * the law is clear that an agreement on the part of the members of a combination controlling a substantial part of an industry, upon the prices which the members are to charge for their commodity, is in itself an undue and unreasonable restraint of trade and commerce; * * *'" On the following page, the court said: "The aim and result of every price-fixing agreement, if effective, is the elimination of one form of competition. The power to fix prices, whether reasonably exercised or not, involves power to control the market and to fix arbitrary and unreasonable prices. The reasonable price fixed today may through economic and business changes become the unreasonable price of tomorrow. Once established, it may be maintained unchanged because of the absence of competition secured by the agreement for a

* Appellants contend that this percentage is unfair to them inasmuch as it includes amounts sold by Texas, Barnsdall, and Standard of Indiana, who were either acquitted in the court below or granted a new trial. The effect of this situation will be hereafter discussed.

price reasonable when fixed. Agreements which create such potential power may well be held to be in themselves unreasonable or unlawful restraints, without the necessity of minute inquiry whether a particular price is reasonable or unreasonable as fixed and without placing on the Government, in enforcing the Sherman Law, the burden of ascertaining from day to day whether it has become unreasonable. * * *" The case thus deals entirely with the price fixing combination on the part of those controlling the essential portion of the product, with the resultant power to eliminate competition.

The Government also relies upon holdings in prior cases which the court in the Trenton Potteries case relied upon as authoritative precedents for its decision. The four principal cases so relied upon were United States v. Freight Ass'n, 166 U. S. 290; United States v. Joint Traffic Ass'n, 171 U. S. 505; Addyston Pipe & Steel Co. v. United States, 175 U. S. 211, and Swift and Company v. United States, 196 U. S. 375. It is argued by the Government that of these four cases, only the two freight association cases were like the Trenton Potteries case, combinations to fix and maintain uniform minimum selling prices (the railroads' freight rates being the equivalent of a manufacturer's selling price).

It is further argued that the Addyston case and the Swift case disclose combinations not to fix prices, but to raise prices. We do not believe this is a correct appraisal of those cases. In the former at page 237, it is said:

"The defendants acquired this power by voluntarily agreeing to sell only at prices fixed by their committee and by allowing the highest bidder at the secret 'auction pool' to become the lowest bidder of them at the public letting."

It is true that the defendants intended and agreed to increase prices, but this purpose was to be accomplished by an agreement to sell only at prices fixed by the committee. The very essence of the combination was therefore the agreement to fix prices. There is language in the Swift case which affords some support to the Government's argument, but that case is likewise distinguishable from the present by the statement of the court on page 392:

"For the same purposes, and to monopolize the commerce protected by the statute, the defendants combine 'to arbitrarily, from time to time raise, lower, and fix prices, and to maintain uniform prices at which they will sell' to dealers throughout the States. This is effected by secret periodical meetings, where are fixed prices to be enforced until changed at a subsequent meeting. The prices are maintained directly, and by collusively restricting the meat shipped by the defendants, whenever conducive to the result, by imposing penalties for deviations, by establishing a uniform rule for the giving of credit to dealers, etc., and by notifying one another of the delinquencies of such dealers and keeping a black list of delinquents, and refusing to sell meats to them."

Thus it seems that the concerted action there condemned involved price fixing with penalties imposed for deviations therefrom. It is of more importance, however, as hereinafter pointed out, that in each of these cases competition was eliminated. It is also of some significance to note that they were decided prior to the decisions of the court in Standard Oil Co. v. United States, and United States v. American Tobacco Company, supra. Another case which the Government urges in support of its contention is that of Sugar Institute v. United States, 297 U. S. 553. Again we think that case is distinguishable from the present one upon the facts. There the product was sugar and the defendant companies refined practically all the imported raw sugar processed in this country. They provided more than 80% of all the sugar consumed in the United States. Discussing the agreement involved, the court, page 582, said:

"The distinctive feature of the 'basic agreement' was not the advance announcement of prices, or a concert to maintain any particular basis price for any period, but a requirement of adherence, without deviation, to the prices and terms publicly announced."

While the court found that the concerted action imposed an unreasonable restraint, we do not understand that it was found to be unlawful per se. In other words, the court considered the nature and character of the industry as well as certain trade abuses and evils with which the industry was afflicted in making its determination. On page 598, it said:

"* * * Voluntary action to end abuses and to foster fair competitive opportunities in the public interest may be more effective than legal processes. And cooperative endeavor may appropriately have wider objectives than merely the removal of evils which are infractions of positive law. Nor does the fact that the correction of abuses may tend to stabilize a business, or to produce fairer price levels, require that abuses should go uncorrected or that an effort to correct them should for that reason alone be stamped as an unreasonable restraint of trade."

It was pointed out that the defendants went further than was necessary in an attempt to correct the evils and abuses incident to its business and on page 601, the court said:

"* * * The unreasonable restraints which defendants imposed lay not in advance announcements, but in the steps taken to secure adherence, without deviation to prices and terms thus announced. It was concerted undertaking which cut off opportunities for variation in the course of competition however fair and appropriate they might be."

We think we have referred to the strongest of the many cases relied upon by the Government, and we reach the conclusion that they do not support the contention that the evidence here discloses a price-fixing agreement unlawful within itself.

We now come to the case of Appalachian Coals, Inc., v. United States, supra, which appellants designate as "the leading case," and

upon which the argument is largely predicated that the trial court erred in its refusal to direct a verdict in favor of the appellants. We think it must be conceded that there is much support in this case for appellants' contention. There an attempt was made to remedy competitive evils in the coal industry by concerted action among competitors. The defendants were 137 producers of bituminous coal in what was known as the Appalachian territory, which included all or parts of four states. In this territory and the immediately surrounding area, the defendants produced 54.21% of the total production or 64% if the output of "captive" mines (those producing for the consumption of the owners) be deducted; and excluding tonnage in the immediately surrounding territory, the defendants' production amounted to 74.4% of the total production. Approximately 73% of the producers agreed to the concerted action. These producers created Appalachian Coals, Inc., an exclusive selling agency in which they held all the capital stock. It was agreed that the company should sell all coal produced at the best prices obtainable and if all could not be sold to apportion the same among the defendants on a stated basis. It was the Government's contention, sustained by the lower court, that the plan violated the Sherman Antitrust Act in that it eliminated competition among the defendants themselves, and also gave the selling agency power substantially to affect and control the price of bituminous coal in many interstate markets. The defendants contended that the selling agency did not have the power to dominate or fix the price of coal in any consuming market; that the price of coal would continue to be set in an open competitive market; and that their plan by increasing the sale of bituminous coal from Appalachian territory would promote rather than restrain interstate commerce. There, as here, the essential problem facing the industry was overproduction. This unfavorable condition had been aggravated by what the court designated as "distress coal." The court recited the efforts made by operators and by state and national officials seeking to remedy the situation. No attempt was made to limit production. It was found that as between the defendants themselves, competition would be eliminated. As the court said, page 367:

"* * * This was deemed to be the necessary consequence of a common selling agency with power to fix the prices at which it would make sales for its principals."

In discussing the situation with which the defendants were confronted, the court on page 372 said:

"* * * The evidence leaves no doubt of the existence of the evils at which defendants' plan was aimed. The industry was in distress. It suffered from overexpansion and from a serious relative decline through the growing use of substitute fuels. It was afflicted by injurious practices within itself—practices which demanded correction. If evil conditions could not be entirely cured, they at least might be alleviated. The unfortunate state of the in-

dustry would not justify any attempt unduly to restrain competition or to monopolize, but the existing situation prompted defendants to make, and the statute did not preclude them from making, an honest effort to remove abuses, to make competition fairer, and thus to promote the essential interests of commerce. The interests of producers and consumers are interlinked. When industry is grievously hurt, when producing concerns fail, when unemployment mounts, and communities dependent upon profitable production are prostrated the wells of commerce go dry. So far as actual purposes are concerned, the conclusion of the court below was amply supported that defendants were engaged in a fair and open endeavor to aid the industry in a measurable recovery from its plight. The inquiry, then, must be whether despite this objective the inherent nature of their plan was such as to create an undue restraint upon interstate commerce."

On the following page, in discussing the effect upon prices, it is said:

"The contention is, and the court below found, that while defendants could not fix market prices, the concerted action would 'affect' them, that is, that it would have a tendency to stabilize market prices and to raise them to a higher level than would otherwise obtain. But the facts found do not establish, and the evidence fails to show, that any effect will be produced which in the circumstances of this industry will be detrimental to fair competition. A cooperative enterprise, otherwise free from objection, which carries with it no monopolistic menace, is not to be condemned as an undue restraint merely because it may effect a change in market conditions, where the change would be in mitigation of recognized evils and would not impair, but rather foster, fair competitive opportunities."

The court reviews a number of its previous holdings, including that of United States v. Trenton Potteries Company, supra. With reference to that case, it said:

"* * * defendants, who controlled 82 per cent of the business of manufacturing and distributing vitreous pottery in the United States, had combined to fix prices. It was found that they had the power to do this and had exerted it."

It then proceeds:

"* * * In the instant case there is, as we have seen, no intent or power to fix prices, abundant competitive opportunities will exist in all markets where defendants' coal is sold, and nothing has been shown to warrant the conclusion that defendants' plan will have an injurious effect upon competition in these markets."

It was concluded that the elimination of competition among the defendants themselves was not sufficient to condemn the plan, in view of the fact that there remained active competition upon the open market.

The Government points out in that case that the court was dealing largely with what it designated "distress coal" and that surplus

gasoline, involved in the buying program in the instant case, does not present a comparable situation. It correctly argues that the coal producer necessarily produces more than one grade of coal and that he is forced to produce those grades for which there is no ready market in order to produce the grades for which there is a market; that only the former is designated as "distress." It is also pointed out that no such situation exists in the production of gasoline and that, therefore, the designation of surplus gasoline as "distress" is a misnomer. On the other hand, appellants contend that the refiner is compelled to produce more than market requirements because of his contracts with the oil producers which require him to accept a certain amount of crude oil under penalty of losing his contract. We do not deem it necessary to go into the merits of these respective contentions, although we must confess we do not see any marked distinction between a distress product such as described in the Appalachian case and a surplus product with which we are here concerned. In either instance it is a recognized evil, productive of price wars, unfair competition and detrimental to the best interests of everyone connected with the business, from producer to retailer.

We cannot close our eyes to a theory prevalent in this country, widely proclaimed and embraced by many, including the Government itself, that overproduction, resulting in a huge surplus, is an evil, the effect of which is demoralizing to the industry concerned. This theory has been given general recognition, as well as application, by producers, associations, and organizations representing the same, and by both Federal and State Governments. In American Column Co. v. United States, 257 U. S. 377, Justice Brandeis, in his dissenting opinion, gave emphatic expression to the evil of overproduction. On page 417, he said:

"* * * The purpose of the warnings was to induce mill owners to curb their greed—lest both they and others suffer from the crushing evils of overproduction. Such warning or advice whether given by individuals or the representatives of an association presents no element of illegality."

This record is replete with testimony that the Government, over a course of years, made a valiant effort, succeeding to a marked extent, in increasing the price of crude oil by disposing of the surplus and limiting production. If there is any one thing completely established, it is that the oil industry, as well as numerous Governmental agencies, Federal and State, have recognized surplus crude oil and surplus gasoline as a distress product, the elimination of which was not only desirable, but necessary, if the industry was to survive, to say nothing of prospering. This situation alone cannot be relied upon as a defense, but it affords justification for the action of the defendants in treating surplus gasoline as an evil of the industry and in making a concerted effort to eliminate the same with a view of stabilizing the market, even though an increase in price might result; provided, of course, the program, either as planned or exe-

cuted, did not go so far as to constitute an unreasonable restraint by unduly suppressing or interfering with fair competition. And we do not think this conclusion is in conflict with the decision of the court in the Trenton Potteries case. There the court was considering a plan, which in its very nature, destroyed competition. It was not even claimed there was any purpose or object to correct a competitive abuse in the industry. There is nothing in the opinion to indicate that an agreement to raise or affect prices by the elimination of a competitive abuse is per se illegal or that the character of the restraint is not a proper jury question, under such circumstances.

A study of the decisions of the Supreme Court convinces one that the criterion employed in determining whether concerted action is such as to come within the condemnation of the statute, is the effect which the action has upon fair competition. If concerted action destroys competition, it is immediately branded as unlawful. In the Trenton Potteries case, as heretofore pointed out, competition was destroyed under facts there existing by reason of the price fixing agreement. Conceivably, however, a price fixing agreement is not unlawful per se under all circumstances as is evidenced by the holding of the court in Chicago Board of Trade v. United States, 246 U. S. 231. The court there recognized the assailed agreement as being of a price fixing nature. On page 238, it said:

"* * * The case was rested upon the bald proposition, that a rule or agreement by which men occupying positions of strength in any branch of trade, fixed prices at which they would buy or sell during an important part of the business day, is an illegal restraint of trade under the Anti-Trust Law. But the legality of an agreement or regulation cannot be determined by so simple a test, as whether it restrains competition. Every agreement concerning trade, every regulation of trade, restrains. To bind, to restrain, is of their very essence. The true test of legality is whether the restraint imposed is such as merely regulates and perhaps thereby promotes competition or whether it is such as may suppress or even destroy competition."

In Appalachian Coals, Inc. v. United States, heretofore discussed, the ultimate factor from which the court reached its conclusion that the assailed agreement was not violative of the statute, was that "abundant competitive opportunities will exist in all markets where defendants' coal is sold." In other words, fair competition was preserved rather than destroyed. This test has been applied and enforced in many, if not all of the other cases to which our attention has been called. We shall make reference to a few of the many.

In Sugar Institute v. United States, supra, on page 586, the question is thus stated:

"* * * The crucial question—whether, in the ostensible effort to prevent unfair competition, the resources of fair competition have been impaired—is presented not abstractly but in connection with various concrete restrictions to which the decree below was addressed."

In Maple Flooring Ass'n. v. United States, supra, the court on page 578, said:

"* * * In our view, therefore, the sole question presented by this record for our consideration is whether the combination of the defendants in their existing Association, as actually conducted by them, has a necessary tendency to cause direct and undue restraint of competition in commerce falling within the condemnation of the Act."

In Dr. Miles Medical Co. v. Park & Sons Co., 220 U. S. 373, the court on page 408 said:

"But agreements or combinations between dealers having for their sole purpose the destruction of competition and the fixing of prices, are injurious to the public interest and void."

Again, in Addyston Pipe & Steel Co. v. United States, supra, in discussing the purpose of the combination under consideration, the court, on page 240, said:

"* * * and by means of such combination increase the price for which all contracts for the delivery of pipe within the territory above described should be made, and the latter result was to be achieved by abolishing all competition between the parties to the combination."

Likewise, in Swift and Company v. United States, supra, the court on page 400, said:

"* * * The thing done and intended to be done is perfectly definite: with the purpose mentioned, directing the defendants' agents and inducing each other to refrain from competition in bids. The defendants cannot be ordered to compete, but they properly can be forbidden to give directions or to make agreements not to compete."

As already stated, we are unable to agree with the contention of the Government that the instant case involves a price fixing agreement unlawful per se. It does not follow, however, that appellants' contention is sound that the court erred in its refusal to direct a verdict under the authority of Appalachian Coals, Inc., v. United States, supra. While such contention finds support in that case, we do not think the reasoning therein, when applied here, goes to the extent of requiring a directed verdict. It must not be overlooked that in that case the combination had not been placed in operation. It is evident that the court, in evaluating the effect which the plan would have upon competition, was dealing to a considerable extent in prophecy rather than in actual results produced when and if the plan became operative. The court, on page 377, said.

"* * * We recognize, however, that the case has been tried in advance of the operation of defendants' plan, and that it has been necessary to test that plan with reference to purposes and anticipated consequences without the advantage of the demonstrations of experience. If in actual operation it should prove to be an undue restraint upon interstate commerce, if it should appear that the plan is used to the impairment of fair competitive opportunities, the decision upon the present record should not preclude the Government from seeking the remedy which would be suited to such a state of facts."

In other words, it is plain that the court left open to the Government the right to initiate further proceedings if the plan in operation resulted in the "impairment of fair competitive opportunities." Under such circumstances, we do not think it could be seriously contended but that the nature of the restraint would have to be determined as a matter of fact as distinguished from a restraint unlawful as a matter of law and that this determination would be made from the effect which the plan in operation had upon competition in the open market.

In the instant case, not only the assailed combination, together with its objectives, but the result of its operation for a period of almost two years was before the court. Therefore, it is idle to argue merely as to what was intended by the plan when its operations are disclosed. Its effect upon fair competition, and consequently the question as to whether it constituted an unreasonable restraint of trade, were questions of fact which the court was justified in submitting to the jury for determination. In other words, the restraint imposed was neither lawful nor unlawful per se, but its character was one of fact to be decided by a jury.

The case was submitted to the jury upon the theory that the combination charged was unlawful per se. This, in our judgment, was error such as to require a reversal. Under such circumstances, it ordinarily would serve no useful purpose to enter into a discussion of the evidence as it relates to the character of the restraint imposed. We think it is pertinent, however, to make brief reference to the contentions of the respective parties in this respect by way of demonstrating that the character of the restraint was a jury question and not one to be declared unlawful per se.

Our understanding of the position of the Government is that competition was destroyed or suppressed on the "spot" tank-car market. The Government's position is thus stated:

"The agreement on the part of major companies to purchase gasoline from independent refiners, not competitively and not on the basis of the best price obtainable and not on the basis of purchasing from the concern or concerns whose product best met the purchaser's needs, eliminated price competition among the parties thereto just as effectively and fully as any agreement to sell at uniform minimum prices."

This conclusion, in our judgment, cannot be sustained inasmuch as the buying programs complained of included only about one-third of the gasoline sold on the "spot" market. It would seem that the buying programs actually increased competition among the buyers on that market. No doubt, however, the test should be the effect had upon competition between the sellers and the buyers. Assuming, but not deciding, that competition between the sellers and those engaged in the buying programs destroyed competition as to the one-third of the sales made, there yet remained the two-thirds not involved in the program which was sold on the market as had theretofore been done. Removing the one-third involved in the buying programs, there re-

mained, theoretically at least, and factually so far as the record discloses, a supply equal to the demand. Under such circumstances, it cannot be held that competition on the "spot" market was eliminated. The most that can be said is that the buying programs had an effect on competition, and whether that effect was such as to produce an unreasonable restraint upon commerce, was one of fact. It is argued by the Government that inasmuch as the defendants had knowledge of the amount of gasoline which would be purchased by those not connected with the concerted effort, they were enabled to raise and control the price as effectively as though they had purchased all, or substantially all, of the gasoline offered on the "spot" market. We do not believe this argument is sound. If so, it means that the power or control exercised by all of those engaged in an industry may be included in determining whether a combination of some of its members, perhaps a minority, is possessed with the power to raise and control prices. If such an argument is to be countenanced, then those controlling a relatively small portion of an industry could be charged and convicted with a price fixing arrangement illegal per se. As pointed out both in the Trenton Potteries case and the Appalachian Coals case, it is the combination of those controlling a substantial part of an industry from which the power arises to control prices, but as heretofore stated, where the plan of the concerted effort is placed in operation, we think the situation must be judged largely by its effect.

That the defendants had the power to and did control prices is evidenced as the Government argues, principally by the marked increase in the price of gasoline during the earlier months of 1935, and the "unprecedented rigidity of price beginning in June 1935, and continuing throughout the remainder of the year." On its face, this is a rather convincing circumstance, but when considered in connection with other circumstances, it is not so convincing and certainly not conclusive. For instance, the passage of the Connally Act, which went into effect in February, 1935, undoubtedly played a prominent part in the increase and maintenance of the price level. At any rate, it is disclosed that in prior instances, where the transportation of "hot oil" was prohibited, a similar increase in prices was experienced. Another circumstance which militates against the importance of the rigidity of the price level is the fact that the price of gasoline outside the Mid-Western area was actually higher during the indictment period than it was within. It also is worthy of note that the price to which it is claimed to have been arbitrarily raised and maintained was at no time above that which was regarded by the Government and industry, as a parity price.

In United States v. U. S. Steel Corp., 251 U. S. 417, the court found occasion to comment upon the testimony of certain witnesses concerning the importance of price rigidity. On page 448, it is said:

"* * * His deduction was that when prices are constant through a definite period an artificial influence is indicated; if they

vary during such a period it is a consequence of competitive conditions. It has become an aphorism that there is danger of deception in generalities, and in a case of this importance we should have something surer for judgment than speculation, something more than a deduction equivocal of itself even though the facts it rests on or asserts were not contradicted. If the phenomena of production and prices were as easily resolved as the witness implied, much discussion and much literature have been wasted, and some of the problems that are now distracting the world would be given composing solution. Of course competition affects prices but it is only one among other influences and does not more than they, register itself in definite and legible effect."

There are other factors which it is argued entered into the increase in the price level of gasoline. It is pointed out that at the time of the marked increase in the price of gasoline there was likewise a marked increase in commodity prices in general and that at least a part of the increase is attributable to natural causes. It is disclosed that there are many large refiners outside the Mid-Western area but so near the territory that the product is readily obtainable. In many cases the freight rate from these outside refiners to important points within the territory is actually less than from refiners located within the territory. We shall not relate the details of this situation, but it is argued, not without logic, that potential competition from outside the territory would preclude the raising of prices within the territory to high and arbitrary levels.

It is not within our province to decide the effect, if any, which the buying programs had upon competition in the "spot" market, or upon the restraint of commerce, and the circumstances just discussed are not for such purpose. They are cited in emphasis of our conclusion that the effect upon competition and trade produced by the programs in operation was a factual one with plenty of meritorious argument both pro and con. Thus the situation refutes the idea that the combination was unlawful per se and reinforces our conclusion that it was a case which should have been submitted to the jury for the purpose of deciding whether the restraint involved was reasonable or otherwise.

Another question which is somewhat related to the basic one we have been considering is the allegation in the indictment that the independent refiners, at the instance of certain of the defendants, curtailed their production of gasoline. We are unable to find any competent evidence that the curtailment of production was a part of the plan for concerted action either in its formation or operation. The Government, in support of this allegation, says:

"The record shows that throughout the conspiracy period, efforts were made to induce the independent refiners to curtail their gasoline production, and that after the expiration of the refinery allocation system under the code, allocation of production was continued through the defendant Boges."

We find nothing which connects the appellants in any way with any activities on the part of Boggs in this respect. The court directed a verdict of acquittal as to Boggs. Thus, he was not shown to have been a party to or connected with the alleged conspiracy. Under such circumstances, we know of no rule by which activities on his part could be charged to, or considered as evidence against, the defendants. A number of exhibits are cited in support of the quotation above. They have been examined carefully and we do not think they contain any evidence properly to be considered against the defendants. They consist largely of market letters signed by persons not shown to be members of the alleged conspiracy, in which the hope or opinion is expressed that production be reduced. One of such letters is signed by W. T. Atkins and addressed to J. F. Nagle. (Nagle also was acquitted by direction of the Court.) The letter states: "I had hoped that this refinery's runs might be reduced in line with the Program Committee." It is not disclosed who was meant by Program Committee. These market letters are referred to as "inter-office correspondence." They were published weekly and contained mostly the "gossip" of the trade. A number of them are signed by J. W. Warner and addressed to J. D. Collins, neither of whom was shown to have authority to speak for any of the defendants, but even if he had, such statements as are found in these letters merely represent the opinion, or conjecture, of the writer. Typical of such statements are:

"Marketers in general are advocating a further reduction in gasoline production.

"Many of the plants that are overloaded with gasoline stocks have cut down on operations to half capacity or are operating periodically until demand freely absorbs the present production.

"Suppliers of gasoline throughout the refining districts realize the necessity of keeping gasoline production at conservative levels.

"Reports indicate that the majority of refiners are still adhering to the allocated refinery operations in an effort to keep gasoline production in balance with demand."

So far as we are able to determine, it is just as reasonable to conclude that these expressions of opinion, hope, and conjecture had reference to a continuation of the policy of the Government in reducing production as that they refer to any plan or effort on the part of the defendants. In any event they are incompetent and prove nothing.

Another market letter to which our attention is called is signed by P. E. Lakin, one of the appellants. The letter contains this statement:

"* * * if such refiners hold their runs down to levels in line with a figure recommended by a responsible 'fact-finding' body, the future outlook is bright. Current indications are, that Independent Refiners with a few exceptions, will, in view of their experience dur-

ing N. R. A., conform to a policy of holding crude runs down to market demand."

The question as to whether this statement has reference to the program of the defendants is one purely of speculation. We recognize the broad rule generally followed regarding the admissibility of testimony on a conspiracy charge. That the acts and statements of each member of a conspiracy performed or made in the execution of the conspiracy are admissable against all is a rule well established. No one of the statements referred to comes within this rule or any other rule of which we are cognizant.

From what we have said up to this point it is apparent that this cause must be reversed. For this reason and for the additional one that the views already expressed have a direct bearing upon many of the specific questions presented it will not be necessary, in considering the same, to go into detail such as we otherwise would. We shall take them up, however, in numerical order as heretofore set forth.

Contested Issues I and II may be considered together. The former has to do with the failure of proof to sustain what is argued to be an essential allegation of the indictment, and the latter with a variance between the charge and the issues on which the case was permitted to go to the jury. The allegation of the indictment referred to is Paragraph 24 entitled "Participation of Market Journals." It alleges that the trade journals named in the indictment "have intentionally and wrongfully engaged and participated in the combination and conspiracy set forth in this indictment, and have directly and materially aided the other defendants in effectuating the same, and the unlawful purposes and effects thereof set forth in this indictment." These journals are charged with being the chief agencies and instrumentalities through which the artificially raised and fixed prices of gasoline paid by the major oil companies have affected the price paid by jobbers and others in the indictment territory. They are charged with having published the price paid by the major oil companies as the price paid by jobbers in the "spot" market, intending that such prices would be relied upon by the jobbers in determining the prices to be paid to the major companies in conformity with the contracts existing between the jobbers and the major companies. The Government, at the conclusion of the presentation of its case, conceded that the testimony adduced was insufficient to support the charge as to these trade journals, and the case as to them was dismissed.

It is argued by appellants that this paragraph of the indictment alleges the means and only means by which the conspiracy charged was to be carried into effect. We do not agree with this argument. As we read the indictment, it states a completed charge against the defendants (other than the trade journals) including the means by which the conspiracy was to be carried into effect, preceding the paragraph with reference to the trade journals. Prior to this paragraph the trade journals had not been connected with the conspiracy

and that paragraph evidently was for that purpose. It is in the nature of an additional count specifically charging the trade journals. Without it they were not involved, but it does not follow that it was essential in charging the other defendants.

Paragraph 18 defines the conspiracy. It is alleged that the defendants conspired for the purpose of "artificially raising and fixing the tank-car price of gasoline in the 'spot' market," and that they "artificially raised and fixed said 'spot' market tank-car price of gasoline and have maintained said prices at artificially high and noncompetitive levels," in violation of the Sherman Anti-trust Act. The indictment, prior thereto, had in great detail defined "spot" markets—how prices thereon were determined, and the manner in which the price paid by the jobber and retailer was determined with reference to the "spot" market. Paragraph 19 commences: "Said unlawful combination and conspiracy has been effectuated in the following manner and by the following means." Then follows a detailed description of the two buying programs with the allegation that the purchases in said program were made at "uniform, high, arbitrary and noncompetitive prices." The buying programs are the means alleged to have effectuated the conspiracy. Both the conspiracy and the means alleged precede Paragraph 24 wherein it is sought to connect the trade journals with the conspiracy in a manner similar to that of aiders and abettors. Most of appellant's argument under this point proceeds upon the theory that the paragraph with reference to trade journals describes the only means by which the conspiracy was to be effectuated. Inasmuch as we think this contention is not tenable, we shall not discuss what might be the situation if no other means were alleged.

The argument presented under Contested Issue II with reference to a variance rests upon a similar basis. It is said that the indictment, including the paragraph with reference to the trade journals, charges a price fixing agreement. In other words, the appellants are charged with buying at an agreed price, to be falsely published in the trade journal as the market price, and upon this false price as published, the price to the jobber and retailer was determined. It is argued that the Government, when it failed to make a case against the trade journals, shifted its position and proceeded upon the theory that the activities of the defendants merely affected the prices. Appellants state the situation thus:

"The fundamental difference between fixing the market price and merely affecting the market price is such as to preclude a showing of the latter as a substitute for a charge of the former."

This statement really contains the gist of appellants' argument on the question of variance.

As we understand appellants' position in this respect it is that the indictment, including the paragraph with reference to the trade journals, charges a price-fixing agreement, and when the Government failed to substantiate that paragraph of the indictment it

necessarily followed that no price-fixing agreement was proven but that instead the proof disclosed an agreement merely affecting the market prices and that proof of the latter would not substantiate a charge of the former. The Government, on the other hand, contends that, ignoring the paragraph with reference to the trade journals, the indictment alleges a price-fixing agreement and argues that a price-fixing agreement was proven. The argument again revolves largely around the dicisions of the court in United States v. Trenton Potteries Company, 273 U. S. 392, and Appalachian Coals, Inc. v. United States, 288 U. S. 344. We have heretofore concluded that the Government failed to prove a price-fixing agreement such as is disclosed in the Trenton Potteries case. We also think there has been too much importance attached to the terms "price fixing" and "price affecting," and that the true test to be employed in determining whether an agreement is unlawful per se or one in which the character of restraint is open to investigation must depend upon the effect had upon competition with its resultant effect upon trade. If competition is suppressed or destroyed, the agreement comes within the former class; if not, within the latter. We shall not repeat what we have heretofore said in this respect. It is sufficient here to point out that the distinction has to do with the proof rather than the charge. If a combination has power to destroy competition, no further evidence is required. If it does not, then all relevant evidence should be received and considered in determining whether competition has been interfered with to the extent of constituting an undue restraint. It is not necessary for us to determine whether the indictment charges an agreement unlawful per se, but, answering the question now before us, we assume that it does. That being so, we have no doubt but that proof of an agreement not unlawful per se is sufficient to sustain the charge. The fallacy in appellants' argument rests in the unwarranted premise that two offenses are involved, whereas such is not the case. The statute defines the one offense of "restraint of commerce." The courts have not created two offenses where only one is created by statute, but have classified the offense with respect to the quantum of proof required. In one class, proof of the combination with power to destroy competition is sufficient as a matter of law, while in the other proof is required as to whether the effect upon competition is such as to constitute an unreasonable restraint.

Contested Issue III. It is argued under this point that the court committed reversible error in its refusal to allow appellants' motion for a directed verdict. Appellants' position is stated thus:

"(1) Forced sales of a distress product which contribute substantially to the depressed condition of an industry constitute a competitive evil.

"(2) An intention 'to stabilize the business, or to produce fairer price levels,' through the elimination from a competitive market of a competitive evil (such as distress gasoline) is not unlawful.

"(3) An effort to correct such a competitive abuse is promotive of sound competition and not condemned by the law unless by reason of its intent, inherent nature, or effect it goes beyond the restraint on competition involved in any removal of the competitive evil and unreasonably restrains competition in some other manner than the removal of the abuse."

On the other hand, the Government contends that—

"A combination to fix, raise, or control the market price of a commodity when those who combine possess the power to fix, raise, or control market price is the most important and conspicuous example of this type of restraint. Where a restraint of this kind is established, no question of reasonableness is open for determination by either court or jury.

Again the argument is predicated largely upon the Appalachian Coals case and the Trenton Potteries case. We have held neither case controlling here. It is true in the former case that the court held the "plan would have a tendency to stabilize market prices and to raise them to a higher level than would otherwise obtain." It also stated that the evidence failed to show that "any effect will be produced which in the circumstances of this industry will be detrimental to fair competition." As we have pointed out, however, the court there was dealing with a plan which had not been placed in operation. Here we are considering a plan placed in operation with the results revealed. Under these circumstances, it was a jury question as to the effect which the plan in operation had upon fair competition and its resultant effect upon restraint of trade. It may be as pointed out by Justice Harlan in his dissenting opinion in Standard Oil Co. v. United States, 221 U. S. 1, 97, that the submission of such a question is calculated to render the statute indefinite and uncertain. He said: "* * * the injection of the rule of reasonableness or unreasonableness would lead to the greatest variableness and uncertainty in the enforcement of the law. The defense of reasonable restraint would be made in every case and there would be as many different rules of reasonableness as cases, courts, and juries. What one court or jury might deem unreasonable another court or jury might deem reasonable. A court or jury in Ohio might find a given agreement or combination reasonable, while a court and jury in Wisconsin might find the same agreement and combination unreasonable."

Nevertheless, the decisions of the Supreme Court, heretofore discussed, leave no doubt, in our opinion, that the case was one requiring submission to the jury.

Contested Issue IV. This point has to do with the court's charge to the jury, as well as its refusal to instruct in numerous particulars as requested by the appellants. We shall not endeavor to give even a synopsis of the charge which, as might be expected, was of great length. Rather, we shall state appellants' contention, followed by certain admissions made by the Government with reference to the nature of the charge. Appellants' contention may be summarized thus:

"(1) The Court committed prejudicial error by instructing the jury that it was to consider the reasonableness of the defendants' acts, and the facts and circumstances surrounding them, only if it first found (a) that the defendants did not have the power to raise the level of spot market prices, or (b) that they did not combine for that purpose, and (c) that their purchases affected the spot market prices only indirectly and incidentally.

"(2) The Court committed prejudicial error by instructing the jury that an agreement embracing or involving the raising (as distinguished from the fixing) of the price of a commodity by a group controlling a substantial part of the trade in such commodity is illegal per se."

The Government concedes that the cause was submitted to the jury, upon the theory that the condemned agreement was unlawful per se. It states:

"These instructions, like those in the Trenton Potteries case, withdrew from the jury any further question as to the illegality or unreasonableness of the restraint and, as in the Trenton Potteries case, refusal to grant instructions setting forth tests which, in a different situation or with a different kind of combination, might be applicable in distinguishing between a reasonable and an unreasonable restraint of trade, was not error."

The theory upon which the case was submitted to the jury is further illustrated by the following statement by the Government:

"The court repeatedly and explicitly instructed the jury as to the circumstances which would justify a verdict of guilty. These circumstances were that the jury find (1) that the defendants had the power to raise gasoline prices and (2) that they had combined for this purpose as charged in the indictment. The court charged:

"If you find that the defendants, and those acting in concert with them, controlled the greater part of the gasoline sold in the ten Middle Western States, and had the power to raise the price of that gasoline, and that the defendants and these other persons acting with them have knowingly engaged in a combination to raise or fix the price to be charged for gasoline to jobbers or consumers in the Mid-Western area as charged in the indictment, then you will understand that these defendants have violated the Sherman Act and are guilty as charged in the indictment.

"The court, in repeating the substance of this instruction, charged the jury that if the defendants had the power, and combined for the purpose of raising the level of spot market prices, then 'the restraint of trade was a matter of law undue and unreasonable and, therefore, illegal.'" Thus, it is apparent that the court's charge involves the same fallacy as that which runs throughout the case. The court subscribed to the theory urged by the Government that the agreement proven constituted a restraint unlawful per se. We have already decided to the contrary. Since the case is one which should have been submitted to the jury solely upon the issue of the character of the

restraint imposed, as we have concluded, it necessarily follows that the court's charge, embracing a theory which we conclude is inapplicable, is reversible error.

Contested Issue V. We shall only make general reference to the prof'erred testimony which appellants argue the court erroneously refused to admit. Appellants place the refused testimony in three classes, as follows:

"(1) '* * * the facts peculiar to the business to which the restraint is applied; its condition before and after the restraint was imposed; * * * The history of the restraint, the evil believed to exist, the reason for adopting the particular remedy, the purpose or end sought to be attained * * *.'

"(2) Offers to prove facts showing that the Federal Petroleum Administration encouraged and cooperated with the defendants in the activities for which they were convicted, as bearing upon 'the purpose or end sought to be attained.'

"(3) Offers to prove facts showing 'the nature of the restraint and its effect,' and specifically the fact that the prices of gasoline in the southwestern tank-car markets and in the Mid-Western area were not artificially high and noncompetitive during the indictment period."

Objection to this testimony was made by the Government and sustained by the court largely upon the theory that 'the unreasonableness of the restraint" was not in issue. No doubt if the case had been tried upon that theory, as we think it should have been, the ruling of the court with reference to the admission of much of this testimony would have been different. The rule as to evidence proper to be considered, where the reasonableness of the restraint is in issue, is clearly announced in Chicago Board of Trade v. United States, 246 U. S. 231, 238. There it is stated:

"* * * To determine that question the court must ordinarily consider the facts peculiar to the business to which the restraint is applied; its condition before and after the restraint was imposed; the nature of the restraint and its effect, actual or probable. The history of the restraint, the evil believed to exist, the reason for adopting the particular remedy, the purpose or end sought to be attained, are all relevant facts."

Under the authority of United States v. U. S. Steel Corp., 251 U. S. 417, 446–7, and Fosburgh v. California & Hawaiian Sugar Refining Co., 291 Fed. 29, 36, 37, it would seem that evidence otherwise competent, which would show cooperation with the defendants on the part of Government officials, either in approval or in carrying out the program in question, should be admitted. This class of testimony was not offered to show immunity, but as bearing upon the purposes and objectives of the defendants, and as such, had a bearing, we think, upon the issue which should have been submitted to the jury. The argument of the Government that this class of evidence should be excluded, because it was calculated to confuse the

jury, is not tenable. The test is its relevancy to the issue. We think it is true, as argued by the Government, that much of the refused testimony was of a cumulative nature. At any rate there certainly is much testimony in the record relative to the history of the oil industry, the evils with which it was beset, and efforts made by the industry and various Governmental agencies, Federal and State, to alleviate the situation. The trial court necessarily must be vested with a large amount of discretion in a situation of this kind. After all, even a conspiracy trial can not go on forever.

The defendants were charged with raising the price of gasoline on the "spot" market and in the Mid-Western area at an artificially high and noncompetitive level and any evidence disproving or directly tending to disprove that allegation should have been received.

Contested Issue VI. Under this issue it is argued that the court was without jurisdiction. The Sixth Amendment to the Constitution provides for a trial "by an impartial jury of the State and District where the crime shall have been committed."

Appellants concede properly we think that the court would have jurisdiction if (a) the evidence established that the conspiracy in violation of the Sherman Act was entered into within the Western District of Wisconsin, or if (b) the evidence established that someone or more of the defendants or of their co-conspirators committed an overt act pursuant to the conspiracy within the Western District of Wisconsin. There is no proof establishing jurisdiction under "a" so if it is found it must be under "b." We also accept appellants' two tests for determining whether an act is overt, viz: (1) Was the act in pursuance of the conspiracy?; and (2) Did the act tend to achieve and advance the objects of the conspiracy? As we understand appellants' contention, it is to the effect that the indictment contains no charge that the defendants agreed to make any contract in Wisconsin, nor that they had any agreement with reference thereto, and that what each defendant did in Wisconsin was a matter of individual determination without regard to any term or obligation of any agreement. In other words, that the acts relied upon by the Government as overt, were the acts of defendants acting in their individual capacities and not for or as representative of those engaged in concerted action. Such being the situation, so it is argued, the acts committed in Wisconsin were neither in pursuance of nor tended to achieve and advanace the objects of the conspiracy. This argument, in our opinion, is predicated upon the false premise that the sole purpose of the conspiracy, as charged, was the raising of the price of gasoline on the "spot" market. The indictment, after the allegation with reference to the "spot" market, continues "and have thereby intentionally increased and fixed the tank-car prices of gasoline contracted to be sold and sold in interstate commerce as aforesaid in the Mid-Western area (including the Western District of Wisconsin)." In each of the buying programs described in the indictment, it is alleged "as agreed upon by said defendant major oil

companies, all with the unlawful purposes and effects aforementioned." It would seem rather plain that among the "purposes and effects" was one designed to raise the price of gasoline in the Mid-Western area, as well as on the "spot" market. Assuming, as appellants contend, that there was no evidence as to any statement's or acts at any of the meetings wherein the concerted action was agreed to, with reference to sales within the Mid-Western area, or with reference to prices at any place other than on the "spot" market, we still think the conclusion is irresistible that it was a part of the plan to increase the price in the territory wherein their gasoline was sold. We do not think it can be said that their sole object was the stabilizing or raising of the "spot" market price. That was one object. The other, and perhaps of greater importance to the defendants, was to increase the price in the territory in which their gasoline was sold. Even though there be no direct evidence in proof of this second objective, all the circumstances point irrestibly to that conclusion. To think differently would be the equivalent of believing that the defendants were engaged in a philanthropic endeavor. Otherwise, what could be their purpose or objective in increasing the price on the "spot" market? They were buyers on that market and an increase in price would be to their disadvantage. Advantage to them, if any, could come only through an increase in price in the territory in which they expected to and did sell, including the Western District of Wisconsin. To say the object of the concerted action was to raise the price on the "spot" market without, at the same time, saying that there was a further objective—the increase of the sales price to their customers—would be illogical and contrary to common sense.

In the Trenton Potteries case the defendants were tried in a district other than that in which the conspiracy originated. The court, in discussing the question of jurisdiction, said:

"* * * The record is replete with the evidence of witnesses for both prosecution and defense, including some of the accused, who testified without contradiction to the course of business within the district, the circulation of price bulletins, and the making of sales there by some of the members of the association organized by respondents. The secretary testified that, acting for the association, he effected sales within the district. All of these were overt acts sufficient for jurisdictional requirements."

Appellants distinguish that case from the present one, thus:

"In that case, the sales at a set price were required by the very terms of the agreement and were acts which directly carried out the obligation of the agreement. Here the only obligations created by the agreement related to what was to be done in the buying of gasoline from the non-integrated refiners and in the restraining of competition in the spot tank-car market."

The fallacy of this distinction is that it ignores the object and purpose of the concerted action in the instant case. If the object of

defendants' concerted action was to increase the price of gasoline in the Mid-Western area (including the Western District of Wisconsin) and that objective was accomplished by sales at such increased price, it is our conclusion that under the decision in the Trenton Potteries case such sales would constitute overt acts.

We shall not discuss the numerous authorities cited by appellants under this point. It is sufficient to say that we have read them and do not believe they are even persuasive, certainly not controlling. We, therefore, conclude that the District Court had jurisdiction.

Contested Issue VII. It is argued under this point that the court erred in the admission of evidence. More than 650 exhibits were introduced, three-fourths of which were offered by the Government. It would be surprising if some error was not committed in passing upon the admissibility of such a volume of exhibits. To enter into a discussion of the various errors assigned in this respect would unduly extend this opinion, which even now is quite long. The documents objected to consist largely of letters, telegrams and market reports obtained from the files of the defendants and referred to in a general way as "inter-office communications"; that is, communications from one officer or employee to another officer or employee of the same corporation. In the main, they charge (1) that the defendants induced the independent refiners to curtail production, (2) that the buying programs were for the purpose of restoring the price of gasoline, (3) that, after the rise of the market price of gasoline, the buying programs were utilized in preventing the dumping of "distress gasoline" on the market, and (4) that the employees of certain companies regarded the amount of "distress gasoline" which they had been asked to purchase by members of the Tank-car Stabilization Committee, as "their share," "allocated" or as "assigned" to them and that the companies were obligated to make such purchases. Heretofore we have discussed the evidence by which it was sought to prove the curtailment of the production of gasoline, and found there was no competent evidence in support of the charge. We understand that appellants concede that the concerted effort, resulting in the buying programs, was for the purpose of restoring the price of gasoline and for the purpose of preventing the "distress gasoline" from being dumped upon the market. We do not think appellants now are in a position to complain of evidence, even though improperly admitted, which proved or tended to prove that which is now conceded. What we have said heretofore concerning the evidence relied upon by the Government to prove the charge of curtailed production is largely applicable to the testimony concerning allocation and obligation to buy "distress gasoline." A review of the exhibits leads us to think that in some instances the statements contained therein merely represented the opinion of an employee. In other instances statements were made by an employee not shown to be a member of the conspiracy and not shown to have any authority to

speak. We are convinced, however, that any error committed in this respect could not have affected the result of the trial.

Contested Issue VIII. Under this point it is urged that the court erred in denying the several motions of appellants for a new trial. The Government contends that under the authority of Fairmount Glass Works v. Cub Fork Coal Co. et al., 287 U. S. 474, we are without authority to review the action of the District Court in this respect. Under the theory upon which the case was submitted to the jury, the power to raise prices arbitrarily and artificially was an important element of the case. By the verdict of guilty, the jury found that issue in favor of the Government. When the case was submitted there was included among the defendants the Standard Oil Company of Indiana (and others not here important). The indictment alleged:

"Said area comprises the gasoline market territory of defendant Standard of Indiana, and is sometimes known as the Standard of Indiana territory by reason of defendant's dominant position in the distribution of gasoline in each of said states."

It was the largest company doing business in the Mid-Western area, and as such was the price leader. During the indictment period its business amounted to about 25% of the total. It purchased from the independent refiners from 6% to 10% of the gasoline sold by them. After the verdict of guilty as to all the defendants, including the Standard, the court allowed a motion for a new trial as to the latter. It is argued by appellants that the power found by the jury included that possessed by the Standard. That, therefore, there has been no finding by the jury that the appellants possessed the requisite power. The question becomes one as to whether the Standard was a partner in the alleged conspiracy or an adversary engaged in competition. Thus an important legal question is presented.

Under the circumstances, however, we need not determine either our authority or the merits of the question, for the reason that it has become moot because the case must be reversed upon other grounds.

Contested Issue IX. The essential error alleged under this point concerns the manner in which the Grand Jury testimony was used during the trial. The witnesses of the Government were largely employees and officers of the defendants. Upon the basis that the witnesses were hostile or unfriendly, counsel for the Government read extensively to numerous witnesses what purported to be their testimony given before the Grand Jury for the purpose, so it is claimed, of refreshing their memory. Some idea is gained of the extent to which this practice was employed by appellants' statement (not disputed by the Government) that uncertified Grand Jury minutes were read or referred to on approximately ninety occasions and more than one thousand lines of the transcript of the record consist of verbatim quotations from those minutes. They were read to the witness in the presence of the jury and, although defendants re-

peatedly made requests for the privilege of inspecting and examining such minutes, their request in each instance was denied; nor was the witness permitted to see or examine them. It was the theory of the Government during the trial, persisted in here, that by keeping the minutes out of the hands of the witness, an inspection of the same by the defendants could be prevented. The Government argues that:

"A distinction must be made between the use of a prior statement to refresh recollection and its use for impeachment and between its use to refresh recollection and its use as affirmative evidence where present recollection cannot be revived."

For the purpose of this discussion, we shall accept the Government's contention that the Grand Jury minutes were used solely for the purpose of refreshing the recollection of the witness. It follows that there is no occasion for us to determine the validity of the distinction as pointed out by the Government, or what the rule as to inspection might be under other circumstances.

That the procedure employed was erroneous, we think, is borne out by the great weight of authority; and that it was unfair and prejudicial, we have no doubt. The suggestion that the testimony given by the witnesses in each instance was the same as that read to him from the minutes of his Grand Jury testimony, thus reinforcing the testimony given by the witness and thereby being advantageous to the defendants, is devoid of merit.

Notwithstanding the repeated practice in the procedure complained of, the Government now states:

"* * * not a single item of testimony given by any witness which (1) was elicited by stimulating recollection by calling the witness' attention to his grand jury testimony and (2) was not covered by the testmony of the witness otherwise given."

According to this admission, it would seem that the effort to refresh the recollection of the witnesses was a complete failure. Nor does this admission mininize the harm calculated to result from such procedure.

While the use of the testimony in such manner was erroneous, the damaging effect was its use in connection with statements made by counsel for the Government in which it was repeatedly insinuated, if not actually charged, that the witness was deliberately testifying falsely. It is difficult to believe that the jury could have received any other impression. The jury was told in the opening statement of counsel for the Government that certain witnesses for the Government, because of their connections with the defendants, would testify "under the greatest stress and because he finds no other way out." During the examination of one witness, counsel made this statement:

"Your Honor, the Government is distinctly surprised by this testimony, which is in direct contradiction to testimony given before the

Grand Jury; and the Government asks permission to lead this witness, and to confront him with his Grand Jury testimony for the purpose of refreshing his recollection."

We set forth a few of the typical comments made by the Government in connection with the use of such testimony.*

As we are only considering the proper procedure where the testimony is used for the purpose of refreshing the memory of the witness, or as counsel put it, "to revive a flagging memory," we shall only refer to authorities applicable thereto.

In Morris v. United States, 149 Fed. 123, the court had before it a situation similar to the present one, except that the written memorandum from which the witness refreshed his memory was shown to him. The court on page 126, said:

"* * * We understand it to be the universal rule of evidence in the courts of this country that, where a witness is permitted to examine and refresh his recollection with a paper, it is to be tendered to the other side for inspection just as soon as it has been identified."

In Lennon v. United States, 20 F. (2d) 490, the witness had refreshed his recollection the day before the trial by reading a written memorandum, and the court held that inasmuch as the refreshing material had not been produced in court, the opposing party was not entitled to an inspection thereof. The court said, on page 494:

"* * * It is only where the witness uses the paper to refresh his memory while on the stand that there exists a right to compel the production of the writing for inspection." (Citing cases.)

In Little v. United States, 93 F. (2d) 401, the court on page 406, said:

"It is a generally accepted rule of evidence that the defendant in a criminal case or his counsel has the right, upon proper request or demand, to inspect and use, for purposes of cross-examination, any paper or memorandum which is used by a witness on direct examination for the purpose of refreshing his present recollection."

Wigmore on Evidence, Volume 1, Section 762, announces a similar rule. The reason therefor follows:

"Furthermore, as by having an opportunity of inspection the opponent is guarded against imposition clearly apparent, so by cross-examination based on the paper he may further detect circum-

* "We declare to the Court now that we are frankly surprised at the answer of this witness, and we have very good reasons for that surprise, which we will assert if permitted to do so.

"Your Honor, the Government is distinctly surprised by this testimony, which is in direct contradiction to testimony given before the grand jury; and the Government asks permission to lead their witness, and to confront him with his grand jury testimony for the purpose of refreshing his recollection.

"The Government is not satisfied with that answer, and is still completely surprised, and I would like to cross-examine the witness.

"And were those answers true when you gave them in response to those questions?

"Well is that correct testimony?

"How do you reconcile that with the testimony you say you remember you gave before the Grand Jury?

"And were those answers true when you gave them * * *?

"He does not now admit that he talked with him. I have read the minutes, and he denies that, and denies—his denial is in direct conflict with what I read from the minutes.

"Was it clear in your mind when you testified before the grand jury?

"Do you mean to say that you did not give that testimony before the grand jury?"

stances not appearing on the surface, and may expose all that detracts from the weight of testimony."

With reference to some decisions holding to the contrary, it states:

"These decisions, however, are in a small minority and have no principle to support them."

Contrary to the rule announced in Lennon v. United States, supra, the author states that the rule should apply even where the memorandum was consulted before trial and not brought by the witness into court. The Government argues, without logic we think, and with little, if any, authoritative support, that the rule, as announced, is only to be applied to documents used by the witness while on the stand. Apparently the trial court was of the same opinion. In fact, the purpose of reading the minutes to the witness, rather than placing them in his hands, was to circumvent the application of the rule. The cases cited in support of the Government's theory are not convincing—in fact, they are not in point.

In Mullaney v. United States, 82 F. (2d) 638, the court sustained the refusal of the trial court to permit opposing counsel to inspect a memorandum, but as the court points out, the memorandum was not used or referred to by the witness.

In Metzler v. United States, 64 F. (2d) 203, opposing counsel was refused the right to inspect the Grand Jury testimony in the hands of the prosecuting attorney, but there the witness had refreshed his memory, not from the Grand Jury minutes but from notes personally made while before the Grand Jury.

In Browlow v. United States, 8 F. (2d) 711, a prohibition agent had refreshed his memory by reference to a memorandum book. Opposing counsel demanded possession of the book. It was held that counsel was entitled only to that portion of the book pertaining to his testimony and not to other parts which had no connection therewith.

Many cases are cited [10] by the Government to the effect that it is within the judicial discretion of the trial court to permit counsel to endeavor to refresh the recollection of a hostile witness by calling attention to his testimony given before the Grand Jury, or to other prior statements. So far as we are aware, there is not a single authority to the effect that opposing counsel, upon request, is not entitled to examine and inspect any document or memorandum used by a witness in court for the purpose of refreshing his recollection. That the rule can be avoided by the simple expedient of reading to the witness the memorandum has no basis in law or logic. In fact, there is more reason for permitting inspection by opposing counsel in the latter situation than in the former, where at least the witness is given an opportunity to check upon that which is being used to refresh his memory.

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[10] Beeselman v. United States, 239 Fed. 82, 85; Felder v. United States, 9 F. (2d) 872, 874; United States v. Freundlich, 95 F. (2d) 376, 379; Buckley v. United States, 33 F. (2d) 713, 717; Levy v. United States, 35 F. (2d) 483, 484—485; United States v. Lonardo, 67 F. (2d) 883, 884; Bedell v. United States, 68 F. (2d) 776, 777–778.

Contested Issue X. The error urged under this point is predicated upon the alleged improper and prejudicial argument made to the jury by Government attorneys. It is contended that counsel, in urging a conviction, appealed to class prejudice, advised the jury as to counsel's personal opinion, informed the jury that it was the wish and desire of the highest officials in the Government of the United States that the defendants be convicted, and related to the jury the personal knowledge of counsel in contradiction of and in discrediting an important defense witness. A recitation of those portions of the argument complained of and set forth in appellants' brief would unduly prolong this discussion. We shall relate only extracts from the remarks which are claimed to be the most offensive.[11] In doing so, we recognize there is some merit in the Government's argument that it is hardly fair to undertake an evaluation of the effect which those portions of the argument complained of might have upon a jury, without considering the entire argument. We have read the entire argument for both sides, which occupies some 350 pages in the transcript of record, and we think it can be said that the argument, as a whole, does not disclose a picture as prejudicial to appellants as is argued or as is indicated by the particular statements referred to.

In addition to extracts from the argument already quoted, serious complaint is made of the reading by counsel from a speech delivered by a noted son of Wisconsin at a Graduation Day exercise in 1873. In that speech there was vividly portrayed the advent of a terrible monster in the form of the accumulation of individual and corporate wealth. It was prophesied that the time was approaching when the question would be, "Which shall rule, wealth or man? Which shall lead, men or intellect? Who shall fill public stations, educated and patriotic free men, or the futule serfs of corporate capital?"

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[11] "Not only, gentlemen of the jury, is this prosecution actuated by the Government because of the injury done to the public, but because of the fact that it is a terrible thing that a group of influential, wealthy millionaires or billionaires should take over the power, take over the control, the power to make prices, and to want to make them.

"A hundred lawyers employed the very cream of the American Bar, the very best legal talent that these people can obtain—every one of them working night and day with suggestions as to how the red herring can be drawn across the clear-cut issue of this case.

"And I confidently leave it with you, feeling that you will not let your Government and the United States and its citizens and society down.

"Now, just between yourselves, do you honestly think that these boys here [indicating counsel at Government table] fired with the enthusiasm of crusaders, as I say, and having given to this case every ounce of mental and physical strength they have, and I myself have contributed, also, would be trying to convict these men unless that was the wish and the desire of the highest officials in the government of the United States?

"You don't think the government of the United States would allow four or five lawyers to come out here and prosecute this case against them, against their wishes, or that the Secretary of the Department of the Interior would allow us to do it, if he didn't want it done?

"When combinations or corporations having the financial and the money power that these corporations have here, go out and take the law into their own hands and operate their business regardless of the desire of the Government, and without any consideration for the underdog or the poor man, then we can do one thing or another. We are going to stop it, as our forefathers stopped it before us and left this country with us as it is now, or we are going down into ruin as did the Roman Empire——

"Do you want to say that the vast sum of money that has been spent by the Government here—and not in payment of lawyers, either—running into hundreds of thousands of dollars, in trying to get before you the facts in this case, should be thrown to the winds and these men should go clear, and the world and the nation should be told that these combinations of capital can go out and take the law into their own hands, and they can ric any market they please? If you do—why, all right. I will get along. If you can afford to pay thirty cents or forty cents or fifty cents a gallon for gasoline, why, I will get a little once in a while, too."

However appropriate this speech might have been in the political arena, it certainly had no place in a court of Justice.

We shall refer only to one other complaint concerning the argument. One of the defendants' witnesses had given testimony with reference to the shipment of gasoline to St. Paul via boat up the Mississippi River during the indictment period. This testimony was regarded by appellants as important since it showed, according to their theory, that competition within the indictment territory could not have been eliminated because of the accessibility of that territory to outside markets. Government counsel, in argument, advised the jury in effect that he was familiar with conditions about which the witness had testified—that, during that time the Government was building dams in connection with the nine-foot channel and that as a result "they had concrete clear across the river, spaced in so many ways that, as I say, you just couldn't get a rowboat up there." Appellants lay considerable stress on the harm done by this statement, while the Government argues it was trivial. We do not think it trivial, and certainly, it was improper. If counsel desired to testify he should have gone on the witness stand and subjected himself to cross-examination.

The Government does not undertake to justify much of the argument and misconduct complained of, but it earnestly insists that any error committed is not of a reversible nature. As the case is to be reversed, there seems no occasion for us to make a determination in this respect. We shall merely express the opinion that some of the argument complained of was highly improper and that, taken in connection with the misuse of the Grand Jury testimony, heretofore discussed, would present a very serious obstacle to the affirmance of the judgment.

Separate briefs and arguments have been submitted by the appellants, The Globe Oil & Refining Company (Oklahoma), the Globe Oil & Refining Company (Illinois), and R. H. McElroy, Jr., in which it is claimed that there is no substantial evidence connecting them with the alleged conspiracy, either in its formation or execution, and that the court erred in its refusal to direct a verdict as to them. From a study of the record we are not convinced that the trial court erred in this respect.

For reasons herein stated, the judgment as to each of the appellants is reversed and remanded.

SPARKS, Circuit Judge, concurring. I concur in the opinion in all matters except that part which holds that the venue of this prosecution was properly laid in the Western District of Wisconsin.

The Sixth Amendment of the Constitution provides that the accused shall enjoy a trial by a jury of the State and district wherein the crime shall have been committed.

The crime here charged is a conspiracy to violate the Sherman Anti-Trust Law, and may be prosecuted only in the district where the conspiracy was formed or where some overt act in furtherance

or execution of that conspiracy was committed. Hyde v. United States, 225 U. S. 347; Nash v. United States, 229 U. S. 373; United States v. Trenton Potteries Co., 273 U. S. 392. All acts in furtherance or execution of the conspiracy and none other are deemed overt acts. An act is not an overt act merely because it is related to the individual enjoyment of the personal benefits which a defendant hopes to, and in fact does, receive as the ultimate result of the completely executed conspiracy. See United States v. Black, 160 Fed. 431; Lonabaugh v. United States, 179 Fed. 476; Rose v. St. Clair, 28 F. 2d 189.

Paragraph 18 of the indictment describes the conspiracy as the combining and conspiring together of the defendants "for the purpose of artificially raising and fixing the tank-car prices of gasoline in the aforementioned spot markets (which are referred to in paragraph 16 as 'the spot markets in the East Texas and Mid-Continent fields, and in Chicago, Illinois') and, as intended by them, defendants have artificially raised and fixed said spot market tank-car prices * * * at artificially high and noncompetitive levels, and at levels agreed upon among them and have *thereby* intentionally increased and fixed the tank-car prices of gasoline contracted to be sold and sold in interstate commerce as aforesaid in the Mid-Western area (including the Western District of Wisconsin)." [Italics supplied.]

Paragraph 17 of the indictment alleges: "Spot market tank-car prices of gasoline tend to, and do, directly and substantially influence the retail prices of gasoline, i. e., the prices which consumers are required to pay, in that an increase in the spot market tank-car prices of gasoline will, and usually does, result directly in an increase in the retail prices of gasoline."

Paragraph 19 of the indictment then proceeds to state that the conspiracy thus described was effectuated by the defendants engaging and participating in two concerted gasoline *buying* programs, referred to as "(a) the East Texas *buying* program and (b) the Mid-Continent *buying* program," for the purchase by the defendants from the independent refiners in spot transactions of the distress gasoline in the spot markets above referred to.

It is further alleged in paragraph 25 of the indictment that the conspiracy above referred to has operated and has been carried out in part within the Western District of Wisconsin, in the following manner: "In pursuance of said combination and conspiracy, defendant major oil companies (with the exception of Standard of Indiana and Gulf) have contracted *to sell* and *have sold* and *have delivered* large quantities of gasoline in tank-car lots to jobbers within said district at the artificially raised and fixed and noncompetitive prices aforesaid and have arbitrarily exacted from jobbers within said district large sums of money * * * all by virtue of said combination and conspiracy and pursuant to the purposes and ultimate objectives thereof." [Our italics.]

Not one drop of the oil involved in the purchasing programs, which "effectuated" the alleged conspiracy, was purchased by any of the defendants in the State of Wisconsin, and yet, the Government contends that appellants' subsequent sale in the Western District of Wisconsin of a part of this distress gasoline involved in appellants' purchasing programs, should be considered as an overt act for the purpose of giving jurisdiction to the United States District Court for the Western District of Wisconsin. It is my belief that no such sale can rightfully be considered as an overt act within the accepted meaning of those words, because the alleged conspiracy was "effectuated" and completed with respect to the gasoline thus sold in Wisconsin long before such gasoline was sold or offered for sale in Wisconsin. The indictment does not allege, the Government does not contend, and the evidence does not disclose, that these sales in Wisconsin had any effect whatever on the raising, fixing, or maintaining of gasoline prices in Wisconsin, or elsewhere. These effects were alleged and conceded to be caused by appellants' two purchasing programs which resulted in eliminating from immediate sale all distress gasoline on the tank car spot markets.

It is said that the Trenton Potteries case, supra, is authority for basing jurisdiction on sales. It must be remembered, however, that the conspiracy there was a sales conspiracy; that the defendants owned and controlled practically all of the product in the United States; and that by reason of that fact they were able to and did fix the price below which they had agreed not to sell any of the product. It is quite obvious that under those circumstances any sale of the product by any of the defendants in compliance with that agreement would be an act in furtherance and execution of the agreement, hence an overt act. In other words, the price was raised, fixed and maintained by the sales.

Here, however, the alleged conspiracy was effectuated by the defendants' purchases, and was in no manner furthered or effectuated by their subsequent sales or their sales contracts. The alleged crime would have been as completely and effectually proved under this record without the proof of appellants' sales as it was with such proof.

It is suggested by appellee that the indictment alleges an intention and purpose on the part of the defendants to profit by the general rise in price levels over the entire area, which was caused by their unlawful purchasing programs. We would have assumed this even without such an allegation, but it adds no force to appellee's argument. Suppose appellants had sold no gasoline in Wisconsin during the indictment period, would appellee contend that the venue would have been properly laid in Wisconsin? It has not so contended, and we doubt that it would, because there would have been no overt act in Wisconsin. However, the alleged crime was committed and proved regardless of such sales; and its effect was to raise the price levels over the entire Mid-Western area, including the Western District of

Wisconsin. The overt acts were those in furtherance and execution of the buying programs, and none of them was performed in Wisconsin. It is well settled that the venue must be laid in the district where the conspiracy was entered into, or in a district where some overt act was committed, and not in any district where the effect of the conspiracy was merely sensed.

It is further suggested that appellants concede that if defendants' sales were in pursuance of the conspiracy, they should rightfully be considered as overt acts. This record does not disclose that appellants made such concession. Moreover, the court is not bound by an erroneous concession as to the law, if made by either party or both parties. The conclusion of the majority opinion is no doubt based on what the opinion terms as "appellants' two tests for determining whether an act is overt: (1) Was the act in pursuance of the conspiracy; and (2) Did the act tend to achieve and advance the objects of the conspiracy?" Of course, those tests were relied on by appellants, and their soundness cannot be questioned, for they are supported by an unbroken line of decisions covering many years. These tests, however, are not to be considered separately sufficient. The overt act must meet both tests, and this was appellants' contention both in brief and in argument.

Appellee seems to proceed on the theory that the indictment charged a conspiracy to sell, merely because it is alleged that defendants intended to, and did afterwards, sell the gasoline which they had purchased unlawfully. This language constituted no effective part of the illegal conspiracy and was not described in the charge. It was merely a voluntary recital of what the defendants expected to do with the gasoline which they might illegally purchase. In any event, such sales would not be illegal because it is not alleged, proved, or contended that such sales had any effect whatever upon the sales price.

For these reasons, I think the venue of this prosecution was improperly laid in the Western District of Wisconsin, and that the cause should be dismissed.

And afterwards on, to wit, the 27th day of July 1939, there was filed in the office of the Clerk of this Court the opinion of the Court, which said opinion is in the words and figures following, to wit:

And on the same day, to wit, the 27th day of July 1939, the following further proceedings were had and entered of record, to wit:

In the United States Circuit Court of Appeals for the Seventh Circuit

Thursday, July 27, 1939

Before Hon. WILLIAM M. SPARKS, Circuit Judge; Hon. J. EARL MAJOR, Circuit Judge; Hon. OTTO KERNER, Circuit Judge.

(Caption No. 6721.)

This cause came on to be heard on the transcript of the record from the District Court of the United States for the Western District of Wisconsin, and was argued by counsel.

On consideration whereof: It is now here ordered and adjudged by this Court that the judgment of the said District Court as to each of the appellants in this cause be, and the same is hereby, reversed; and that this cause be, and the same is hereby, remanded to the said District Court.

United States Circuit Court of Appeals for the Seventh Circuit

I, Frederick G. Campbell, Clerk of the United States Circuit Court of Appeals for the Seventh Circuit, do hereby certify that the foregoing typewritten and printed pages, numbered from 1 to 67, inclusive, contain a true copy of the following proceedings had and papers filed:—Statement of Docket Entries, filed July 21, 1938; Notification by Trial Clerk to Appellate Clerk of filing of Notice of Appeal, filed July 21, 1938; Motion to Consolidate Appeals, filed August 12, 1938, Order of May 15, 1939; Order of May 16, 1939; Opinion filed July 27, 1939, and Judgment entered July 27, 1939; and also references to the pages where certain proceedings had and papers filed in this Court may be found in the Printed Record in this cause filed on February 15, 1939, in the following entitled cause: The United States of America, Plaintiff-Appellee vs. Socony-Vaccuum Oil Company, Inc., et al. Defendants-Appellants, No. 6721, October Term, 1938, as the same remains upon the files and records of the United States Circuit Court of Appeals for the Seventh Circuit.

In testimony whereof I hereunto subscribe my name and affix the seal of said United States Circuit Court of Appeals for the Seventh Circuit, at the City of Chicago, this Tenth day of October A. D. 1939.

[SEAL] FREDERICK G. CAMPBELL,
Clerk of the United States Circuit Court of Appeals for the Seventh Circuit.

U. S. GOVERNMENT PRINTING OFFICE: 1939

Supreme Court of the United States

No. 346. October Term, 1939

Order allowing certiorari

Filed October 16, 1939

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit is granted.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

Mr. Justice Butler took no part in the consideration and decision of this application.

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